

Memorandum

To: Introduction to Law Students

From: Professor Belle

Date: December 11, 2018

Re: Final Examination

This is a closed book and closed notes exam. Please abide by all that this implies.

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

Each item is worth the number of points as indicated. (Total = 80 pts)

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

You may use as much as **two hours (2)** to complete the exam, but you may also find that you will need less time.

Good Luck!

(Two Hours Allowed)

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

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, United States of America.

Authorities

Newgarth Statute No. 17-2014, entitled “Emotional Distress for Property Damages,” states: “Effective immediately, anyone may bring an action for intentional infliction of emotional distress, caused by harm to personal property.”

Newgarth Statute No. 13-1966, entitled “Larceny,” states: “Whosoever unlawfully appropriates a chattel belonging to another is guilty of larceny.” The Statute does not provide any definitions.

In *Barnabas v. Frid*, the high court of Newgarth held that the overhanging branches of a tree may be cut off by a neighbor if they interfere with growth on his land or otherwise inconvenience him.

In *Bennett v. Stoddard*, the high court of Newgarth held: “Any person who intentionally takes the life of another may not receive any inheritance from the deceased, or otherwise profit from the death.” The Court reasoned: “No one shall be permitted to take advantage of his own wrong.”

Note 1: The Newgarth State government is very old-fashioned, and so the State has retained the historical forms of action handed down from the early English courts.

Note 2: Do not assume any fact or law not mentioned.

Facts

Peter and Burke, who hate each other, are next-door neighbors in Collinsport.

Burke has a large maple tree and a large wisteria vine, both growing near the wooden fence separating their properties. Burke planted both the tree and the vine many years ago, and loves them dearly.

Peter has a terrible temper, and has committed many violent crimes. His mother is the wealthiest citizen of Collinsport, and has always kept him out of prison. Peter hates Burke's maple tree and wisteria vine, since he can see them both from his back yard, and they remind him of Burke.

Victoria, who lives across the street from Burke and Peter, has been dating both of them while she decides which one she likes better.

Friday night, while dining out, Victoria tells Peter that she is engaged to marry Burke. This is not true; she says it to make Peter spend more money on her. But Peter cares more about his masculine pride than he cares about Victoria: He leaves the restaurant in a rage, vowing to ruin Burke's life. He knows how Burke feels about his (Burke's) maple tree and wisteria vine, and starts thinking up a plan.

Victoria is angry with Peter for being so selfish, and for leaving her to pay the restaurant tab. Since he does not care enough about her to focus on her material wants, she vows revenge.

Saturday night, while dining out, Victoria tells Burke that Peter is planning to murder his (Peter's) mother. This is not true; she says it to make Burke go to the police and inform on Peter. But Burke hates Peter more than he cares about Victoria. And along with everyone else in Collinsport, Burke knows that Peter has a terrible temper. Making a lame excuse, he leaves the restaurant in a hurry, and starts thinking up a plan.

Victoria now has two restaurant tabs to pay, and her plans for pitting Peter and Burke against each other have backfired. Victoria is angry with Burke for being so inconsiderate. She vows revenge.

Part One: 12 points

Assume that Peter cuts off the branches of Burke's maple tree that overhang the fence line. If Burke wants Peter to pay the cost of hauling the branches away, Burke will bring a _____ action to recover _____. If, on other hand, Burke wants Peter to do the actual work of hauling the branches away, Burke will bring an action in _____, seeking _____ performance. In the latter case, the disputed facts most likely would be decided by the _____ because the parties would have no right to a _____ trial.

Part Two: 14 points

Assume that Peter jumps over the fence into Burke's back yard, cuts off all the branches from Burke's maple tree, and carries the branches away. If Burke sues him, Peter can argue that *Barnabas* is binding _____ for this case, because he hates the maple tree so much that the very sight of it inconveniences him. In this regard, Peter can emphasize that the doctrine of _____ obligates the court not to disturb settled points of law. Burke can argue that *Barnabas* is _____ from this case, because the _____ of *Barnabas* was limited to the branches overhanging the property line. Burke can also argue that Peter is liable under the form of action called _____, because Peter carried the branches away. Burke can further argue that Peter is liable under the form of action called _____, because Peter intruded into his (Burke's) back yard. In this regard, if Peter did not cause any actual harm to Burke's land, Burke can still recover _____ damages for the intrusion itself.

Part Three: 4 points

Assume that Peter jumps over the fence into Burke's back yard, cuts off Burke's wisteria vine at the base of its trunk, and carries it away. If Burke sues Peter, Burke can argue that *Barnabas* is not _____, because the _____ of that case are distinguishable.

Part Four: 6 points

Assume that Peter jumps over the fence into Burke's back yard, cuts off Burke's wisteria vine at the base of its trunk, and carries it away. If Burke wants Peter to return the vine, he can make a claim for either _____ or _____, because Peter unlawfully took his chattel and is unlawfully detaining it. If the claim is for _____, then Peter would have the option either to return the chattel, or to pay Burke for its value.

Part Five: 20 points

Assume that Peter jumps over the fence into Burke's back yard, cuts off Burke's wisteria vine at the base of its trunk, and leaves the vine in Burke's yard with a note saying, "I hope you like what I did to your precious darling. Sincerely, Peter." Two weeks later, the Newgarth State Legislature enacts Statute No. 17-2014 (quoted above), which is part of the Newgarth Civil _____. Newgarth's prior case law, which is generally synonymous with _____ law, disallowed such a cause of action. But since _____ is generally more authoritative than case law, the Statute _____ the prior inconsistent case law. This is not to say, however, that the _____ branch of the Newgarth State government is more authoritative than the _____ branch.

[Part Five is continued on page 5]

If Burke sues Peter for intentional infliction of emotional distress under Statute No. 17-2014, Peter can argue that under the _____ rule of statutory interpretation, the text itself precludes Burke's claim, for two reasons: First, when Peter cut off the vine, it was part of Burke's land, which is _____ property, not personal property. Second, the _____ of the words "effective immediately" is "from this moment forward." Peter can also argue that the Statute does not apply, because it was enacted after Peter cut off the vine, and legislation generally operates _____.

Further Facts

After the incidents and legal matters involving Burke's maple tree and wisteria vine, Burke sneaks into Peter's garage late one night and takes Peter's car, moving it to the far end of Peter's driveway, so that it blocks the sidewalk. Early the next morning, the Collinsport police impound the car and tow it away, because it is unlawful to block any sidewalk with any vehicle. When Peter retrieves the car, he finds a note in the glove compartment, saying, "You are my son, but I am tired of your bad behavior. From now on, I will no longer keep you out of prison. And you are not to be trusted with my money. So tomorrow afternoon I am instructing my lawyer to draw up a new will, disinheriting you. Love, Mother." Peter goes to his mother's house in a rage. He stabs her and she falls, mortally wounded. In her dying moments, she swears she did not write the note. He looks at it again and now recognizes Burke's handwriting.

Part Six: 16 points

If Burke is tried for larceny under Statute No. 13-1966 (quoted above), the prosecutor can argue that the _____ rule of statutory interpretation applies, because Burke unlawfully appropriated Peter's car. The prosecutor can also apply _____ reasoning to argue that the Statute clearly covers the facts of the case, and so Burke should be convicted through the use of _____ logic.

[Part Six is continued on page 6]

Burke, using _____ reasoning, can argue that applying the Statute here would be unsound, because the Legislature intended to target permanent deprivations of chattel, and he did not permanently deprive Peter of his car. Burke can also argue that since he did not actually remove the car from Peter's property, he did nothing "unlawful"; therefore, he should not be convicted, because under the _____ rule of statutory interpretation, giving the words of the statute their ordinary meaning would lead to an absurd result. In response, the prosecutor can argue that under the _____ approach, the court should consider the obvious intent of the Statute, which is to prevent any meddling with another's chattel. To support this argument, the prosecutor can discuss the Statute's _____ history, which is one type of _____ aid to statutory interpretation.

Part Seven: 8 points

Assume that Peter is convicted of murdering his mother. He later brings a civil action to recover her estate, arguing (unsuccessfully) that *Bennett* is _____, and so he is entitled to inherit, because he acted negligently, not "intentionally." Peter also argues (unsuccessfully) that the above-quoted statements from *Bennett* are not authoritative because they are merely _____. Peter appeals his criminal and civil judgments. Both cases eventually go to the high court of Newgarth, which, similar to the high court of New York State, is known as the _____. After losing there, Peter seeks a hearing from the United States Supreme Court, but his petition for _____ is denied. Finally, imprisoned for life without parole, Peter finds religion and accepts his fate.