

# Memorandum

To: Torts Students  
From: Professor Carr  
Date: Thursday, December 20, 2018  
Re: Midterm Examination

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

Your exam consists of two (2) essay questions and 17 MBE questions. The total test time is two (2) hours 40 minutes. You will have two **(2) hours to complete the essay questions**. It is recommended that you allocate one (1) hour to each question. You may not refer to the text, class notes, or any other information source. Do not communicate with anyone during the test other than the proctor administering the examination. After a short break, during which all exams must be turned-in at the Law School office, the whole class will be given the MBE questions. You will have 40 minutes to complete the MBE questions.

Your answer should demonstrate your ability to analyze the facts presented by the problem, to select the material from the immaterial facts, and to discern the points upon which the problem turns. It should show your knowledge and understanding of the pertinent principles of the law, their relationship to each other and their qualifications and limitations. It should evidence your ability to apply the law to the facts given and to reason logically in a lawyer-like manner to a sound conclusion from the premises adopted. Try to demonstrate your proficiency in using and applying legal principles rather than a mere recitation of your memory of them.

An answer containing only a statement of your conclusions will receive very little credit. State fully the reasons that support your conclusion. All issues within the call of the question should be fully and thoroughly discussed. You should not discuss legal doctrines that are not relevant to any issues in the problem or not responsive to the call of the question.

Good luck!

**QUESTION 1**  
**(One hour)**

After three weeks in her new job as bus driver for Ace Bus Lines, Jill was gaining confidence in her ability to maneuver the 24-passenger bus along the suburban streets of her assigned route. As she walked toward her bus to begin the morning commute service Ace provided under contract with the city, Jill was stopped by her manager, Fred. "Change of plans, Jill; Donny is sick today so you're taking his downtown route." Jill hesitantly mentioned that she had only driven in the less crowded suburbs, that she didn't know the downtown route, and that Donny drove the much larger 80-passenger bus. "I've never even driven the bigger bus in training," she said, worry in her voice. "And you need a special license to drive that bus; I only have the Class 2B license." Fred laughed off her concern: "Yeah, you technically ought to have the 2A license, but you gotta drive his bus; your little bus is too small for the downtown route."

Slowly piloting the larger bus through busy downtown traffic, Jill desperately tried to spot each upcoming stop on the unfamiliar route; an angry shout alerted her that she had failed. "Wake up, moron!" Tim snarled. Looming over Jill, he shouted in her ear, "You missed my stop! Lemme out!" Jill calmly replied: "I'll stop as soon as I can safely let you out, sir." "NO! Stop right here!" Tim demanded. He began to pound his large fist against the exit door. When the bus continued to move slowly forward, Tim turned and grabbed Jill's arm, jerking the steering wheel to the right and causing the bus to swerve and lightly hit the car in the next lane, despite Jill's quick application of the brakes.

Following company policy, Jill flipped the switch to lock the doors so that no bystander could climb aboard and fraudulently claim injuries from the minor accident. A passenger attempted to exit through the rear door, but sat down again when the door wouldn't open. As Jill called her dispatcher to send assistance, Tim began to loudly argue with Jon, who was telling Tim to stop harassing Jill. When Tim angrily raised his fist and moved toward him, Jon used his skills as an amateur boxer to break Tim's nose. Tim turned and ran forward, crashing through the locked bus door and falling out on to Sam, the driver of the car the bus had side-swiped in the minor crash, knocking him to the ground and fracturing his hip.

Emerging from a nearby bar to survey the chaotic scene, Carol knew her moment of destiny had arrived: thinking that Tim was one of the terrorists her alcohol-addled brain had concluded were hi-jacking the bus now blocking all lanes of traffic, she pulled her pistol from her bag and fired repeatedly, hitting Tim, Sam, and two nearby pedestrians too slow to escape the melee. Satisfied that she had thwarted the terrorists, Carol placed her pistol in her bag and returned to her waiting martini.

At the time of this incident, state law TL 64 stated: “To promote the safe operation of multi-passenger vehicles, drivers of vehicles carrying a maximum of 30 passengers must possess a valid Class 2B license. Drivers of larger vehicles carrying more than 30 passengers must possess a valid Class 2A license.”

Discuss the parties’ rights and liabilities under the theories of tort law you’ve learned this semester.

**QUESTION 2**  
**(One hour)**

Larry had hoped that Sue, his new neighbor, would be the sort of happy, community-minded person her predecessor had been on this block of neat little houses. When he took over a thermos of fresh coffee and a plate of freshly baked cinnamon rolls on Sue's first morning there, she answered the doorbell by intercom: "What do you want?" "Good morning and welcome! I'm Larry, your neighbor," Larry replied cheerily. The voice on the intercom dripped with venom: "You woke me, Larry. I had a lovely dream that I lived in a neighborhood where people minded their own business." Larry slowly turned and walked away.

Choosing to believe Sue had just been tired after moving in, Larry tried again the following morning. Sue came to the door this time. Larry grinned and extended his hand: "Hi neighbor! Just wanted to welcome you to our little community." "You're a slow learner, Larry," Sue growled. "I don't want to be welcomed, I don't want to be part of your little community, and I don't want to see you on my porch again." Sue slammed the door. Larry sadly went home to Snuggles, his toy poodle and best friend.

Later that day, Larry was cleaning his garage when he remembered that he had loaned his hedge clippers to Paul, his former neighbor who died and left the house to Sue, his distant but only relative. Not wanting to risk another rebuff, Larry placed a short note requesting the return of the hedge clippers into a nicely monogrammed envelope and leaned it against Sue's front door. As he turned and moved toward the sidewalk, the lawn sprinklers sprang to life, throwing a jet of water onto Larry and soaking little Snuggles. Shivering, Larry heard laughter from inside Sue's house; her voice rang out clear in the cold air: "You and that mangy mutt stay off my property!"

The next day, Larry heard a piteous wail from his back yard. Running out, he saw Snuggles frantically trying to extricate his head from the hedge separating Larry's backyard from Sue's. Managing to pull the moaning Snuggles from the hedge, Larry cried "Oh no!" Snuggles nose had been neatly severed from his face. As he cradled his bleeding little friend in his arms, Larry heard Sue from the other side of the tall hedge: "Oh darn; sorry neighbor. That little black nose looked just like part of the hedge. Thanks for the loan of the clippers; they worked great."

When he returned late that night with Snuggles after emergency vet surgery, Larry was infused with the pure energy of his seething rage. Grabbing a sledgehammer from his garage, Larry used it to knock away the small chain and lock Sue had recently placed on her front gate. He strode down Sue's driveway to the shed in her back yard and smashed in the wooden door with a single hammer stroke. Clutching his recovered hedge clippers, he stalked back up the drive where he was confronted by Sue and her boyfriend Spike, a professional football player.

Spike snatched the clippers from Larry's grasp and bent the metal blades like paper. As Spike lifted Larry off the ground with one hand, Larry fractured Spike's skull with the sledgehammer. Sue tore the hammer from Larry's hand and beat him to a bloody, lifeless pulp.

Discuss the parties' rights and liabilities under the theories of tort law you've learned this semester.