

MINI-EXAM

Instructions

DO NOT GO BEYOND THIS PAGE UNTIL THE EXAM ACTUALLY BEGINS.

While you are waiting for the exam to begin, be sure that you have written the last four digits of your SOCIAL SECURITY NUMBER on each bluebook, that you have read these instructions, and that you are otherwise ready to begin.

This exam will last 1 HOUR. Plan on spending at least 10 MINUTES reading the question and outlining your answer. REREAD the question to be sure you haven't missed anything.

Please discuss only the kinds of issues that would be raised as a result of what you have learned in Chapter 2. Please **OMIT** from your analysis any discussion of issues that are covered beyond that point.

DOUBLE-SPACE your answers in the blue-book. Write in ink on one side of the page. Use generous margins.

If you use more than one bluebook, label each bluebook, e.g., "Book 1"; "Book 2"; etc.

You are welcome to use abbreviations, but indicate what they are, e.g., "Andropov (A) would sue Brezhnev (B). B would be liable to A if"

Plan on spending at least 10 minutes at the end **PROOFREADING** your answers. You may not write **ANOTHER WORD** after time is called.

You may **KEEP** your copy of the exam questions if you wish.

REMEMBER THE HONOR CODE: DO NOT IDENTIFY YOURSELF

DOUBLE SPACE! GOOD LUCK!

DOUBLE SPACE!

Question 1 (60 points)

Pyrodyne Corporation (Pyrodyne) is a company that provides aerial fireworks at public fireworks displays. For a fee of \$8,000, Pyrodyne agreed to provide a fireworks display at the annual International Technologies, Inc., picnic on the banks of Lake Wilson on July 4, 1990. Pyrodyne agreed to procure fireworks, to provide pyrotechnic operators, and to display the fireworks. The fireworks consisted of 5-inch mortar tubes, arrayed in a series of rows, that were pointed vertically. They were ignited sequentially during the course of the display. However, during the fireworks display, one of the 5-inch mortars somehow became knocked into a horizontal position. From this position a rocket inside was ignited and discharged. The rocket flew 500 feet in a trajectory parallel to the earth and exploded near the crowd of onlookers. Danny Klein, who had been invited to the picnic because his company was considering the purchase of several I.T. products, was injured by the explosion. Danny's clothing was set on fire, and he suffered facial burns and serious injury to his eyes.

Danny has come to you and asked for your advice as to whether or not he could successfully recover damages for his injuries. During your interview with him you learn the following facts:

- (1) In a newspaper account following the accident, a Pyrodyne representative denied any responsibility for the injury. The reporter was told that the stray rocket "must have" been knocked into a horizontal position by the explosion of an adjacent rocket, which apparently was defective. According to the Pyrodyne representative, the defective rocket detonated in its above-ground mortar tube without ever leaving the ground, knocking another rocket into a horizontal position. However, Danny believes it is also possible that the wayward rocket was simply not properly stabilized to insure a proper trajectory.
- (2) Danny has a copy of a January 1991 Pyrodyne memo to its employees, stating the following: "At large gatherings it is advisable to bury the mortar tubes in the ground. Also, before placing the rockets in launch sequence, check each rocket for potential defects."
- (3) A statute governing fireworks provides that any individual setting off aerial fireworks must first obtain a permit. As part of the permitting process, the statute also required proof of \$1,000,000 in insurance coverage. Pyrodyne obtained the permit, but its insurance for the date in question was retroactively cancelled when it was discovered that Pyrodyne had failed to send in the renewal premium.

Please draft a memo containing your advice to Danny.

