Empire College of Law

Torts Mid-Term Examination

Fall 2025

Prof. J. Stogner

Instructions:

Answer Two (2) Essay Questions

Answer 25 Multiple-Choice (MBE) Questions in Examsoft/Examplify.

Time Allotted: 3 Hours

QUESTION 1 (One hour)

Darby had a rat infestation in his garage. One day he placed a rat trap just outside his garage door. Pablo lived six houses away from Darby. Pablo's cat, Link, as he had done in the past, wandered over to Darby's house to hunt rats. When Link walked by the rat trap he nudged it with his paw and the trap's spring-loaded bar snapped shut on his tail. Terrified, Link bolted back toward his house, the wooden snap trap, still attached to his tail, clunking on the sidewalk behind him. When Link reached Pablo's house he darted inside through the small cat door and in his panic slammed into a lamp next to where Pablo was sitting watching television. The lamp fell over and caused an electrical short in the wall, which started a small fire at the outlet. Pablo managed to put the fire out with a wet towel, after $2,000.00 in wall damage had been sustained. He was also able to corner and catch Link, who was surprisingly unharmed, and free Link from the snap trap. The entire experience was so emotionally upsetting to Pablo that he broke out in hives.

Darby had seen Link run off with the trap on his tail, so he went over to Pablo's house to make sure Link was okay. Pablo saw Darby coming up the public sidewalk toward Pablo's house. "I'm so sorry my trap caught Link's tail," Darby said as he approached. "Darby, just go away and leave me alone. I don't wanna talk to you right now," Pablo yelled through his window. But Darby really wanted to make amends so he walked up to Pablo's front door anyway and knocked. Pablo opened his front door quickly and while Darby stared at him in surprise Pablo grabbed him by the collar of his shirt, pulled him off his feet, and dragged Darby off Pablo's property. Link then came out of the

house and walked out to the sidewalk. When Darby got up from the sidewalk and saw Link Darby kicked the intrepid cat, causing Link to sustain brain damage and die.

What are Pablo's potential causes of action against Darby, and what are Darby's defenses, if any? Discuss.

What are Darby's potential causes of action against Pablo, and what are Pablo's defenses, if any? Discuss.

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QUESTION 2 (One hour)

Darlene had a small tattoo parlor in her basement, which she called the Dungeon. Paula lived nearby, and although she did not like tattoos she agreed to come over to Darlene's house for a cup of coffee. As the two of them sat in Darlene's kitchen Paula said: "You're great Darlene, but I wouldn't be caught dead going near your Dungeon. I'm just not a tattoo fan, and frankly tattoo parlors have always freaked me out." Darlene felt that Paula was looking for a little reassurance. "If you relaxed and let it happen I could give you a tattoo you'd really love." Just then Paula began to get very tired. The coffee she'd been served was decaf and Darlene had put some propofol in it to make Paula pass out. "Paula's gonna love this," Darlene thought as she carried the unconscious Paula downstairs into her Dungeon. While Paula was unconscious in the Dungeon Darlene gave her an amazing tattoo in full color. The tattoo depicted a beautiful brown hand tattooing a bright red rosebud onto Paula's left shoulder.

When Paula regained consciousness she found herself sitting in Darlene's kitchen, just as she'd been before passing out. As Paula rubbed her achy left shoulder absent-mindedly, unaware she'd received a tattoo there, Darlene smiled and said, "You took a little nap."

Later, after Paula got home, she discovered the tattoo. Paula loved the tattoo. But she realized she'd been drugged and rushed back to Darlene's house to confront her. Darlene opened her front door and saw Paula standing there upset. "You're mad at me? It's the best tat I've ever done. You're gonna love that tat. You should be thanking me. If you wanna hit me, well, I guess take your best shot. But—" Just then Paula slugged Darlene in the face, knocking her down and breaking her jaw.

For the next several weeks, Paula engaged in a campaign of harassment against Darlene. She followed Darlene, confronted her in public places, yelled at her, and

mailed her dead bugs and sent her strange and threatening emails. Darlene was greatly alarmed by Paula's behavior and sought counseling.

What are Paula's potential causes of action against Darlene and what are Darlene's defenses, if any? Discuss.

What are Darlene's potential causes of action against Paula and what are her defenses, if any? Discuss.

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Monterey College of Law

ID:	(Student ID)
Exam Name:	Torts-ECL-F25-Stogner-os
Exam Date:	Dec 12, 2025
File Name:	_Torts-ECL-F25-Stogner-os_20251212_final.xmdx 180 minutes
Exam Length:	(Started @Dec 12, 2025, 6:30 PM; Ended @Dec 12, 2025, 9:30 PM)
Downloaded:	Dec 11, 2025, 6:10 PM
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Total Number of Words in this Exam = 2479
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Total Number of Characters in this Exam (No Spaces, No Returns) = 12275

1) 90

Pablo v. Darby

Is Darby liable for Trespass to Chattel on Link? If so, did it amount to conversion?

Trespass to chattel is the intentional interference with the personal property of another, either by impairing the condition, quality or value of the chattel, interfering with ones possession of chattel, or harming a person, property, or something else who had a legally protected interest in the chattel.

Conversion is a complete or very substantial interference with the chattel of another.

Here, when Darby kicked Link, this was an intentional act. The kick also caused Link to sustain brain damage and die, which both impaired the condition of Link and completely deprived Pablo of his possession of him. For these reasons, Darby will be liable for trespass to chattel at least, and more than likely conversion as well for killing Link.

It should also be noted that Darby would not be liable for any trespass to chattel or conversion for Link getting caught in his rat trap, as Link suffered no injury from that and thus Pablo's possessory interest in him was not affected nor was the condition quality or value or Link impaired.

Is Darby liable for the $2000 in damage to Pablo's wall after Link ran into the house through negligence?

Negligence occurs when one party suffers an injury due another's failure to act as a reasonable person would under the same or similar circumstances. To bring a cause of action for negligence, plaintiff must show four required elements: duty, breach, causation (proximate and actual), and damages.

Darby no duty as Pablo

Proximate (legal) cause requires a reasonably close relationship between the defendants carelessness and plaintiffs harm. Proximate cause is typically severed due to superseding intervening acts, public policy, unforeseeability, or remoteness.

Actual (factual) cause is a more mechanical analysis where plaintiff must show that the harm would not have happened "but for" defendant's carelessness.

Here, Pablo would be able to establish actual cause that his wall would not have been damaged "but for" Darby's mouse trap ensnaring Link. Without the trap, Link would not have been frightened and would not have rushed inside and knocked over the lamp. However, it is very unlikely that Pablo will be able to establish proximate cause as it is completely unforeseeable that leaving out a rat trap would lead to $2000 worth of fire damage to a neighbor's house 6 houses away. Furthermore, no duty was owed to Pablo since he was well beyond the zone of danger created by leaving out a rat trap, especially since the trap was not placed carelessly, but just outside Darby's garage door which is reasonable given that he has a rat infestation in his

garage. Thus, since proximate cause and duty are required elements of negligence, Darby will not be liable for the damage to Pablo's wall.

Is Darby liable for trespass to land when he walked up to Pablo's front door after Pablo told him to go away?

Trespass to land is the intentional, unauthorized entry onto the land of another.

Here, Pablo expressly told Darby to "go away" and not to come onto his land. Thus, when Darby defied him and walked up to the front door anyway, he intentionally entered Pablo's land without authorization. For these reasons, Darby will be liable for trespass to land for walking up to Pablo's front door without permission.

Can Pablo recover for emotional distress from breaking out in hives over the Link fiasco? What about for IIED for Darby kicking Link?

Emotional Distress must result in a definite and observable injury in order to serve as a valid basis for recovery for negligence.

Intentional Infliction of Emotional Distress (IIED) is intentional or reckless outrageous conduct directed at plaintiff or knowingly done in their presence which causes them severe emotional distress.

Here, since Pablo broke out in hives he suffered the kind of objective physical evidence to suffice for a potential recovery. However, as discussed supra, it is unlikely that he would be able to establish proximate cause between his hives and any negligence by Darby in leaving out the rat trap, nor did Darby owe him any duty to prevent emotional distress when he left out the rat trap, so overall it is unlikely that he would be able to recover for his emotional distress for his hives.

As to potential IIED, Darby's intentional act of kicking Link and killing him would suffice for outrageous conduct. It is unclear if it was directed at Pablo, but since it seems like it was knowingly done in his presence, and could have been out of retaliation for having been thrown out onto the sidewalk, that element would likely be satisfied. If Pablo broke out into hives when Link was fine from the rat trap, it seems likely that he may suffer even worse emotional distress from seeing his cat be killed. If that happens, that would be sufficient evidence of severe emotional distress to allow Pablo to recover for IIED against Darby.

Darby v. Pablo

Can Darby recover for battery when Pablo grabbed his shirt and dragged him off the property? What about assault as well?

Battery is an intentional harmful or offensive touching of another without consent. Some

jurisdictions require just the intent to touch, while others require the intent for the touching to be harmful or offensive.

Assault is the intentional creation in another of a reasonable apprehension of an imminent harmful or offensive touching without consent.

Here, as to battery, Darby clearly did not consent to being grabbed and thrown off the property. Furthermore, grabbing someone and dragging them is definitely harmful or offensive, especially evidenced by the fact that Pablo seemed to be quite angry or at least annoyed at Darby before. The act was also intentional and not the result of any kind of spasm or involuntary movement. Finally, the fact that he grabbed Darby's shirt does not preclude liability since that would be considered part of Darby's person. For these reasons, Darby will be able to recover for a battery against Pablo.

As to assault, the facts mention that Darby "stared at Pablo in surprise" before being grabbed. Since Pablo was clearly angry, it seems likely that he intended for Darby to apprehend his imminent harmful or offensive touching of grabbing him and dragging him. For these reasons, Darby will be able to recover for assault.

Can Pablo raise a defense of property argument to avoid liability?

Defense of Property may be raised when one has a privilege to use reasonable force to defend their property. Deadly force, or force calculated to cause great bodily injury is not allowed.

Here, Pablo did make a request for Darby to leave, which may assist him in asserting that his use of force was reasonable. However, since Darby approached by saying that he was sorry for Link getting caught in the trap, a jury might not find that it was reasonable for Pablo to use force since it was clear that Darby was not approaching to get violent or cause damage to Pablo's property. Overall, though, since Pablo did make the request for Darby to leave which was then ignored, it seems most likely that Pablo will be able to successfully raise a defense of property argument and avoid liability for assault and battery.

Can Darby recover for trespass to land for Pablo letting his cat roam onto Darby's property?

Trespass to land supra

A trespass to land must be intentional, and though Link is instrumentality of Pablo that would suffice for a trespass, no intentional action on the part of Pablo caused Link to go onto Darby's property. Furthermore, it seems as though there may have been implied consent for Link to roam onto Darby's house since it says he had hunted for rats there before. Thus, it seems very unlikely that Darby could recover for trespass to land.

Can Darby recover for trespass to chattel/conversion for his rat trap getting meddled with by Link?

Trespass to chattels supra

Conversion supra

For both trespass to chattels and conversion there must be an intentional act by the defendant, and as discussed supra there was no intentional act on the part of Pablo that made his cat get caught in the trap. Thus, Darby will not be able to recover for the loss of his rat trap.

Can Darby claim that he kicked Link in self-defense?

Self-Defense allows a potential tortfeasor to escape liability as long as they had a reasonable belief that the use of force was necessary to prevent the imminent application of force upon themselves. The use of force must be reasonable in proportion to the threat.

Here, since the "intrepid" cat posed nearly no risk of injury to Darby, his use of force was completely disproportionate and unreasonable and thus would not allow him to escape liability for his trespass to chattels/conversion on Link or IIED on Pablo.

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Paula v. Darlene

Can Paula recover for battery for the propofol in her coffee? Getting carried down the stairs? Getting the tattoo?

Battery is an intentional harmful or offensive touching of another without consent. Some jurisdictions require just the intent to touch, while others require the intent for the touching to be harmful or offensive.

Here, by slipping propofol into Paula's coffee, Darlene has effectively "touched" Paula in a way that would definitely be offensive to her without her consent. People generally would not like to be slipped sleeping drugs when they come over to their friends house for coffee. It was clearly intentional be Darlene, evidenced by the fact that she did it to make Paula fall asleep for a tattoo. Thus, Darlene would be liable for battery for slipping the propofol into Paula's coffee.

As to when she carried her down the stairs, this was yet another touching done without Paula's consent. She had mentioned that she would never go into the dungeon, so carrying her down into the dungeon would more than likely be considered harmful or offensive. Again this was done intentionally to get Paula downstairs to give her a tattoo. Thus, Darlene would also be liable for a battery for carrying Paula down the stairs.

Finally, as to the tattoo, this was clearly done intentionally as evidenced by Darlene's master plan that led to it, and even though Paula loved the tattoo at first it would still be harmful or offensive since she had previously said she would never want to get a tattoo, and it did cause her shoulder to become achy. Thus, Darlene will be liable for yet another battery for actually administering the tattoo.

It should be noted that Darlene did not intend for any of these touchings to be harmful or offensive, and thus in some jurisdictions she may escape liability.

Can Paula recover for false imprisonment of being taken into the dungeon while unconscious?

False Imprisonment is the intentional restraint of the physical liberty of another by force, fear, threat, duress, or violence. The victim must have been aware of the restraint or harmed by it.

Here, by intentionally drugging Paula, Darlene effectively restricted her physical liberty by force and left her with no ability to escape from the dungeon while they were down there. Even though Paula was not aware of the restraint while it was occurring since she was unconscious, she was harmed by it by receiving a tattoo (and an achy shoulder) to which she did not consent. It is possible that since she liked the tattoo that she was not actually "harmed" by the restraint, but that seems unlikely since tattoos usually involve some degree of irritation to the skin and soreness while they heal. Thus, Darlene will most likely be liable for the false imprisonment of Darlene. Plus her arm was achy!!

Could Paula recover for intentional infliction of emotional distress against Darlene?

Intentional Infliction of Emotional Distress (IIED) is intentional or reckless outrageous conduct directed at plaintiff or knowingly done in their presence which causes them severe emotional distress.

Here, Darlene's intentional conduct of tricking Paula into getting a tattoo even though the fact pattern indicates that Darlene knew that Paula was "freaked out" by tattoo parlors may be sufficient to constitute "outrageous" conduct, but the fact pattern does not indicate anywhere that Paula suffered any severe emotional distress as a result, merely that she was just "upset." Thus, Darlene will not be liable for IIED against Paula.

Darlene v. Paula

Can Darlene recover for battery against Paula? What about assault?

Battery supra

Assault is the intentional creation in another of a reasonable apprehension of an imminent harmful or offensive touching without consent.

A **Consent defense** may be raised when the defendant consented to what would otherwise be tortious conduct. Consent may be express or implied. For battery, some jurisdictions hold that lack of consent is an element of battery.

Here, when Paula "slugged Darlene in the face" that would definitely be an intentional, volitional act and would be harmful or offensive contact since it broke her jaw. However, when Darlene taunted Paula by saying "If you wanna hit me, well, I guess take your shot" she seems to have

given consent to the battery. It is possible that she didn't believe that Paula would hit her and thus didn't intend to really give consent to be hit in the face, but based on her words alone it would be apparent to Paula that she had consent to take a swing. Thus, since Darlene cannot show a lack of consent, she cannot recover for a battery against Paula (or Paula could raise this as a defense).

As to assault, it appears as though Darlene did not actually apprehend that an imminent punch was coming her way, since she was mid sentence when it hit her. By taunting and goading Paula, it seems like she either did not expect a punch or invited one. If she did not actually see the punch coming, there would be no assault. Even if she did see it coming, she consented to it as discussed supra and thus Paula would escape liability for any potential assault against Darlene.

Can Darlene recover for Intentional Infliction of Emotional Distress against Paula for the "campaign of harassment?"

Intentional Infliction of Emotional Distress (IIED) supra

Here, Paula's conduct was clearly intentional and directed at Darlene as a way of getting revenge or taking out her anger on Darlene for the tattoo. As to whether her conduct meets the lofty standard of "outrageous," confronting her in public, mailing her dead bugs, and sending threatening emails are far beyond mere rude comments or insensitive jokes and would likely qualify as outrageous. As to causation, the facts state that Darlene was alarmed by this outrageous behavior and suffered enough emotional distress to need counseling. This would be the kind of evidence needed to establish sever emotional distress. Thus, Darlene will be able to recover for IIED against Paula.

END OF EXAM