

Empire College of Law  
Torts Final Examination  
Spring 2025  
Prof. J. Stogner

Instructions:

Answer Two (2) Essay Questions

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

Time Allotted: 3 Hours

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

Pat owned a dachshund puppy too small to be able to jump up on his bed. Pat purchased an "Up Pup," which was a three step set of stairs made of a bouncy, mattress-like material, and manufactured by a corporation called Dog Aides, Inc. The "Up Pup" was designed to allow a dog to climb up to and down from the bed. Dog Aides, Inc. was wholly owned by Devin. A brochure in the box with the "Up Pup" stairs included the following language: "This product is safe and strong enough for use by any of man's best furry friends." Pat was a small man. In addition to his dachshund puppy he also happened to own a huge St. Bernard dog that outweighed him by 15 pounds. Pat knew that his St. Bernard had a bad habit of happily jumping up on people when it greeted them. The St. Bernard had already knocked down Pat's neighbor doing just that.

One day a light bulb went out on Pat's bedroom ceiling, so Pat, not bothering to get a step stool, moved the "Up Pup" stairs away from the bed and positioned them under the ceiling light bulb. Pat hadn't noticed a small decal on the underside of the "Up Pup" which stated the following: "The 'Up Pup' stairs are not for use by people." As he climbed the "Up Pup" stairs to unscrew the light bulb the stairs sunk under Pat's weight and tipped over. Pat fell to the floor, injuring his left shoulder.

Devin found out Pat had been injured falling off an "Up Pup," so he decided to go see Pat to apologize. When Devin knocked on Pat's door and Pat opened it to see who was there, Pat's St. Bernard bounded toward Devin happily, jumped up and knocked him

down, breaking Devin's collarbone. A few days later Pat posted to his many friends on Facebook the following note: "Devin viciously attacked my St. Bernard and paid the price!"

What are Pat's potential causes of action against Dog Aides, Inc., and what are Dog Aides, Inc.'s defenses, if any? Discuss.

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

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**Question 2**  
**(One hour)**

Dave owned Dave's Storage Company. Paul needed to rent a storage unit so he could store a \$10,000.00 Chinese vase that he'd recently purchased. Paul went to Dave's Storage and Dave told him "I'll rent you unit number 5." Paul agreed and the next day he arrived with his vase and Dave pointed out the unit which would now be Paul's to rent. Paul left the vase in his new storage unit and then called his insurance company and took out a policy of insurance protecting the property stored at Dave's Storage, unit number 5.

In fact, Dave had accidentally rented unit 9 to Paul, not unit 5. Paul did not notice the error because the units did not have numbers on them and Paul's was in a location that was easy to remember. One week later a thief broke into Paul's unit and stole the vase. Paul reported the theft to his insurance company, but when the insurance adjuster determined that Paul was renting unit number 9 at the time of the theft, not unit number 5, the insurance company denied coverage and refused to pay Paul \$10,000.00 for the lost vase.

Paul was angry at Dave about the mix up. Although Dave's Storage had no involvement in the theft of the vase, Paul took out an advertisement in the local paper which stated the following: "Dave's Storage is the place to rent—if you want to get your stuff stolen! That company is behind the thefts, too, and surely has a good side hustle selling the stuff they steal." Dave's Storage renters began to move out, costing Dave's Storage a significant loss of revenue. Dave called Paul on the phone and told him to stay away from Dave's Storage.

Dave wanted more information about Paul so he climbed a tree near Paul's house and installed a surveillance camera that gave him a view through the sliding glass door in the back of Paul's house. When he viewed the surveillance footage later Dave discovered that Paul was growing marijuana plants in a legal quantity in his front room, under grow lights. Dave immediately posted the surveillance video showing Paul's indoor marijuana grow on Instagram and identified Paul as the "doper" responsible for it.

Paul drove onto Dave's Storage premises to confront Dave. He walked into the business office of Dave's Storage and kicked over a water cooler in the corner, destroying it. Dave came out of a back room when he heard the commotion and, reaching into his pocket, yelled at Paul: "If you damage any more property of mine I'm going to shoot you down like the dog you are." Paul then charged Dave and tackled him. After an employee broke the two men up Paul left the premises.

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

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

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## Monterey College of Law

ID: [REDACTED] (Student ID)  
Exam Name: Torts-ECL-SP25-Stogner-OS  
Exam Date: Apr 29, 2025  
File Name: [REDACTED]Torts-ECL-SP25-Stogner-OS\_20250429[REDACTED].final.xmdx  
Exam Length: 179 minutes (Started @Apr 29, 2025, 6:30 PM; Ended @Apr 29, 2025, 9:30 PM)  
Downloaded: Apr 28, 2025, 7:34 PM  
Uploaded: Apr 29, 2025, 9:30 PM  
GRADE \_\_\_\_\_

Total Number of Words in this Exam = 5145

Total Number of Characters in this Exam = 30911

Total Number of Characters in this Exam (No Spaces, No Returns) = 25774

95

1)

**Pat (P) v. Dog Aides (DA)**

**Is DA liable for products liability?**

**Products liability** holds manufacturers and sellers liable for injury caused by a defective product placed into the stream of commerce. Products liability is present when the product is defective at the time it leaves the manufacturer, there has been no significant alteration prior to the injury, and the defect was the actual and proximate cause of the injury.

DA is the manufacturer and seller of "Up Pup". As an entity placing products into the stream of commerce, DA may be liable for any injury resulting from his product if it is in fact proven that his product was defective (discussed infra).

**Does P have a Negligence cause of action against DA?**

**Negligence** is injury caused by the creation of an unreasonable risk of harm to a foreseeable plaintiff in the zone of danger. It is comprised of duty, breach, causation and damages.

A **duty** is an obligation to act with due care and as a reasonably prudent person would under the same or similar circumstances. A duty arises if plaintiff is a foreseeable plaintiff in the zone of danger, or if there is a special relationship between the parties.

Here, P is the purchaser of the Up Pup product which is specifically manufactured for the use of dogs. As a dog owner and a purchaser of the product, this makes P a foreseeable plaintiff in the zone of danger. As such, DA owes P a duty to provide a product that is reasonably safe for use and not defective.

A **breach** is a failure to act with due care.

The facts tell us that DA made representations that the product was strong enough for any dog. The facts also tell us that P owned a St. Bernard that was 15 pounds heavier than P. A reasonably prudent person would assume that if this product is safe for dogs of all sizes, it would be safe for a human of smaller size to use the product. Because DA failed to act reasonably in providing information, he breached his duty to P as a foreseeable plaintiff.

**Causation** must be both actual and proximate. **Actual causation** is the factual analysis that requires plaintiff to prove that "but for" defendant's carelessness, plaintiff's harm would not have occurred. If there is more than one potential cause of injury, then plaintiff must use the substantial factor test. **Proximate cause** is the legal analysis portion that requires a reasonably close legal relationship between defendant's carelessness and plaintiff's harm. Proximate cause may be cut off if plaintiff's harm is too remote in time or distance, there is a superseding intervening act, plaintiff's harm is unforeseeable (wagonmound jurisdictions), or for public policy reasons.

Here, but for DA's representations that it was safe for any of man's best furry friends, P may not have engaged in using the Up Pup product to change his lightbulb. Proximate cause is not cut off because the facts do not indicate that plaintiff's harm was too remote in time or distance,

there was no superseding intervening act, plaintiff's harm was not one that was unforeseeable, and there is no indication that a finding of proximate cause would violate public policy. Accordingly, plaintiff meets the causation element of causation because but for DA's negligent misrepresentation (infra), his harm would not have occurred.

**Damages** are in the form of harm/injury to plaintiff's person or property.

Here, plaintiff suffered personal injury. Because P can successfully prove the elements of negligence, he will likely succeed in a claim against DA for negligence.

Was there a breach of an expressed warranty?

**Express warranty** is a written or oral representation about a products quality, performance, or safety, that is justifiably relied upon by the consumer, a breach of which results in damages to plaintiff.

The facts tell us the product included a brochure that made a written representation about the products safety (by stating it was safe and strong enough for use by any of man's best furry friends). P justifiably relied on this representation, however, the express warranty was specific to the use of dogs, as evidenced by the writing specifying safe and strong enough for use by any of man's best furry friends. As such, DA is likely not liable for breach of an expressed warranty under products liability.

Was there a breach of an implied warranty?

**Implied warranty** of merchantability is present in all products that are placed into the stream of commerce, meaning that the product is reasonably fit for its intended general purpose for which it was manufactured.

Here, the product may not be reasonably fit for its intended general purpose. It can be inferred, via circumstantial evidence, that if the product is supposed to support dogs of all sizes, than it must presumably support the weight of a human 15 pounds less in weight. Because of this, the product may not be reasonably fit for its intended purpose to be manufactured to be used as a universal stepping stool for dogs of all sizes. Accordingly, DA may be liable for breach of implied warranty of merchantability.

Is DA liable for a manufacturing defect?

A **manufacturing defect** exists when a product deviates from its intended design, making it unreasonably dangerous to consumers and resulting in damages to plaintiff.

Here, the facts are silent as to any indication that the product deviated from it's intended design. As such, DA is likely not liable to P for manufacturing defect.

Is DA liable for a design defect?

A **design defect** exists when the entire blueprint of a product is flawed, making every single product that derives from that blueprint unreasonably dangerous to consumers. Some jurisdictions require plaintiff to prove a reasonably safe alternative design.

The design of the products was intended to allow dogs to climb up and down from a bed, not for use of switching lightbulbs. As such, there are no facts that indicate that the blueprint of the Up

Handwritten note: "Handwritten Disagree"

Handwritten note: "Corrected by M.S. 1/28/16"

Pup was defective. DA is not liable for design defect.

Is DA liable for a failure to warn?

A **failure to warn** occurs when a product is unreasonably dangerous in a manner that is not obvious to the consumer, which the seller/manufacture fails to provide warning or adequate instructions for, resulting in injury to plaintiff.

The facts tell us that there was a small decal on the underside of the Up Pup which stated that it was not for use by people. Even though there was a warning label, it was inadequate warning because it is reasonably foreseeable that a consumer would miss this decal and not see it. The decal is one that should be placed in a place that is readily apparent to the consumer to avoid injury. As such, DA is liable to P for failure to warn.

Is DA liable for a negligent misrepresentation?

**Negligent Misrepresentation** occurs when defendant carelessly provides false information to plaintiff, in a situation where defendant owes plaintiff a duty to provide accurate information, and plaintiff justifiably relies on defendant's false information to their detriment.

Here, P relied on the statements made by DA's brochure, and DA owed P a duty since P was a consumer of the goods DA manufactured. However, DA actually did provide accurate information, specifying that the intended use was for dogs. DA will likely not face liability to P for negligent misrepresentation.

Does DA have any defenses?

**Comparative fault** is a defense to negligence whereby plaintiff's recovery is reduced by the percentage of risk attributable to plaintiff in bringing about his own harm.

**Implied assumption of the risk** occurs when an individual voluntarily encounters a known risk of an activity understanding its magnitude.

Here, DA may have the defense of comparative fault because P was also negligent in using the product. DA may also try to use implied assumption of the risk because P voluntarily encountered a risk when using a dog stepping stool for changing a lightbulb. However, this defense may be moot since DA failed to adequately warn about the risk of human's using the Up Pup.

Devins (D) v. Pat (P)

Is P liable for strict liability?

**Strict liability** is liability without fault. It is most commonly seen when dealing with animals (wild and domesticated animals with a known dangerous propensity), abnormally dangerous activity, and products liability.

Owners of **domesticated animals with a known dangerous propensity** may be held strictly liable for harm/injury caused by those animals even if the owner used precaution.

P knew that his St. Bernard had a bad habit of jumping on people when it greeted them. Because dogs are domesticated animals, the issue turns onto whether this would be a known

dangerous propensity. However, because of the dog's size, since the facts tell us that it was 15 pounds heavier than P, a reasonably prudent person would consider his jumping on others dangerous. As such, P may face strict liability for the harm caused by his St. Bernard.

Is P liable for Battery?

**Battery** is the intentional harmful or offensive touching of another without consent.

P's dog harmed D without D's consent, knocking him down. Because this was a harmful touching, which D did not consent to, D may seek a cause of action for battery against P as the dog's owner. However, this is unlikely to prevail since it was not P who actually touched D in an offensive or harmful way.

Is P liable for Defamation?

**Defamation** is the utterance of a falsehood, of or concerning plaintiff, published to a third party, which results in repetitional harm to plaintiff. Defamation can be written (libel) or oral (slander).

P posed on his facebook, with many friends, a falsehood about D. Because it was posted on facebook, this constitutes publication to a third party. Because it was written, this is libel. The facts are limited as to whether D suffered any repetitional harm, but assuming his followers understood the publication, and developed a negative perception of D, then D would very likely be successful in a claim against P for defamation.

Is P liable for Injurious Falsehood?

**Injurious falsehood** is the utterance of a falsehood regarding a business, product, or economic interest, motivated by malice that is published to a third party which results in damage to plaintiff.

Because D is the sole owner of Dog Aides, P's statement could be considered an utterance of a falsehood against D's business as well. The facts are somewhat limited to whether there was any malice, but the exaggeration of the word "viciously" may be indicative of P's ill will. Because it was published to his many facebook friends, the statement made about D could be injurious to D's business. As such, P is likely liable for injurious falsehood.

Is P liable for False Light?

**False light** occurs when material is publicized in a manner that offensively creates a false perception of plaintiff. Repetitional harm is not a requirement.

The statement made by P could offensively create a false perception of D as someone who is aggressive towards dogs. As a business owner in the business of selling dog products, this could be highly offensive and cause D to suffer embarrassment by being depicted under this false perception. P is liable for false light.

Is P liable for Intentional Misrepresentation?

**Intentional Misrepresentation** occurs when plaintiff makes a false statement of a material fact, with the intent to induce reliance from plaintiff, which plaintiff does justifiably rely on, resulting in pecuniary harm to plaintiff.

Here, D made an intentional representation of a material fact (D did not in fact attack his dog), with the intent to induce some reaction from his followers which would cause them to rely on his statement and develop a negative perception of D. The facts are silent as to the type of damage D suffered, but assuming he lost business as a result of P's misrepresentation, D could potentially prevail in an action of intentional misrepresentation against P. If this were the case, D could also seek an action for intentional interference with prospective economic advantage.

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**Paul (P) v. Dave (D)**

Is D liable for negligent misrepresentation?

**Negligent Misrepresentation** occurs when defendant carelessly provides false information to plaintiff, in a situation where defendant owes plaintiff a duty to provide accurate information, and plaintiff justifiably relies on defendant's false information to their detriment. Pure economic loss may be actionable under negligent misrepresentation.

Here, D owed P a duty to provide accurate information as P was a consumer of the services D offered. P's justifiable reliance on D's statements caused him to take out insurance on the wrong storage unit, insuring unit 5 instead of 9, which was the one he was actually assigned. As a result of D's negligent misrepresentation, P suffered the loss of his \$10,000 vase that he could no longer recover because his insurance would not cover the loss.

Is D liable for negligence?

**Negligence** is injury caused by the creation of an unreasonable risk of harm to a foreseeable plaintiff in the zone of danger. It is comprised of duty, breach, causation and damages.

A **duty** is an obligation to act with due care and as a reasonably prudent person would under the same or similar circumstances. A duty arises if plaintiff is a foreseeable plaintiff in the zone of danger, or if there is a special relationship between the parties.

Here, P is a consumer of D's services. Because of this, a special contractual relationship exists between P and D that gives rise to a duty to act with due care.

A **breach** is a failure to act with due care.

D breaches his duty to act with due care when he carelessly provides false information to P.

**Causation** must be both actual and proximate. **Actual causation** is the factual analysis that requires plaintiff to prove that "but for" defendant's carelessness, plaintiff's harm would not have occurred. If there is more than one potential cause of injury, then plaintiff must use the substantial factor test. **Proximate cause** is the legal analysis portion that requires a reasonably close legal relationship between defendant's carelessness and plaintiff's harm. Proximate cause may be cut off if plaintiff's harm is too remote in time or distance, there is a superseding intervening act, plaintiff's harm is unforeseeable (wagon-mound jurisdictions), or for public policy reasons.

Here, but for D's carelessness, P's harm would not have occurred and he would have been able to get the correct unit insured and his vase would have been covered under the insurance.

Thus, actual cause is met. Here, the facts do not seem to indicate that plaintiff's harm was too remote in time or distance. D may attempt to argue, however, that there was an unforeseeable superseding intervening act when a thief broke into Paul's unit and stole the vase. However, this is not likely to be the case because this type of act is foreseeable and likely the reason that P got insurance in the first place, making this type of harm foreseeable. Nothing in the fact pattern indicates a public policy reason to cut off proximate cause. As such, proximate cause is also present and P meets the elements for causation.

**Damages** are in the form of harm/injury to plaintiff's person or property.

Plaintiff suffered injury to his property and as such, may have a cause of action against D for negligence.

Is D liable for Intrusion?

**Intrusion** is the invasion of a privacy in a place, conversation, or matter in which plaintiff was an objectively reasonable expectation of privacy which a reasonably prudent person would find highly offensive.

Here D climbed a tree near P's house and installed a surveillance camera directed at the back of P's home. An individual's home is an objectively reasonable place which society recognizes as containing a reasonable expectation of privacy, an invasion of which would be highly offensive to a reasonable person. By placing a camera directed at P's home, D is liable for intrusion.

Is D liable for Public Disclosure of Private Facts?

**Public disclosure of private facts** occurs when material is publicized in a manner which a reasonable person would find highly offensive and is not of legitimate concern to the public.

Here, D publicized the fact that P grew marijuana in his homes. The facts tell us that it was a legal quantity, indicating a multitude of reasons why P could have been growing marijuana in his home, i.e., for medical purposes. Because this publication could be highly offensive to someone using marijuana for medical reasons, and because it is legitimately not of public concern, D is liable to P for public disclosure of private facts.

Is D liable for Assault?

**Assault** is an intentional act which creates in another a reasonable apprehension of imminent harmful or offensive touching. The defendant must have the present apparent ability to carry out the act.

Here, D was reaching into his pocket and yelled at P that he was going to shoot him. Paul could reasonably believe he was about to be shot by P. Accordingly, D is liable for assault to P.

**D v. P**

- (no defense of prop. defense)

Is P liable for defamation?

**Defamation** is the utterance of a falsehood, of or concerning plaintiff, published to a third party, which results in repetitional harm to plaintiff. Defamation can be written (libel) or oral (slander).

Here, utters a material falsehood when he falsely advertises on the local paper that D's company is behind the thefts. Because D is the owner, this may qualify as defamation. The facts indicate that D's storage had no involvement in the theft, making this a fact that can be provable as false. This was published in the local paper, satisfying the publication. The facts indicate that D's business suffered significant harm, proving reputational harm and making P liable for libel under defamation. All libel carries presumed damages due to its permanency.

Is P liable for Injurious Falsehood?

**Injurious falsehood** is the utterance of a falsehood regarding a business, product, or economic interest, motivated by malice that is published to a third party which results in damage to plaintiff.

P's statement was a direct utterance of a falsehood about D's business. P was upset, indicating malice, about what happened to his vase, and so he published in the local news paper an injurious statement about D's business. As such, P is likely liable to D for injurious falsehood.

Is P liable for Intentional Misrepresentation?

**Intentional Misrepresentation** occurs when plaintiff knowingly or recklessly makes a false statement of a material fact, with the intent to induce reliance from plaintiff, which plaintiff does justifiably rely on, resulting in pecuniary harm to plaintiff.

Here, P recklessly entertained serious doubts about the validity of his statement. He intended for his statements to be relied upon by the readers of the papers, which the facts indicate they did rely on, and caused harm to D. Accordingly, P is liable to D for intentional misrepresentation.

Is P liable for Intentional Interference with existing contractual relations?

**Intentional Interference with existing contractual relations** occurs when defendant, by way of his wrongful conduct, disrupts a validly existing contract between plaintiff and a third party, resulting in a breach.

Based on P's wrongful conduct in uttering falsehoods to the public, the facts tell us that renters began to move out of D's storage units. Assuming all renters had validly existing contracts with D, P would be liable to D for intentional interference with contractual relations.

Is P liable for Intentional Interference with Prospective Economic Advantage?

**Intentional Interference with prospective economic advantage** occurs when defendant, by way of his wrongful conduct, disrupts the reasonably likely future economic interest of plaintiff, resulting in damage to Plaintiff.

The facts tell us that D suffered a significant loss in revenue as a result of P's wrongful conduct. As a result of storage renters moving out, D suffered likely future economic interest that was a direct result of P's actions. P is liable to D for intentional interference with prospective economic advantage.

Is P liable for Trespass to Land?

the defendant must have acted with the intent to cause or result in pecuniary harm to plaintiff

Possibly if P's conduct will be out of contract

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

Here, P walked into the business office of D's storage. The facts do not indicate any level of consent for P to have walked into D's business office. Had P stayed in the general lobby area for customers, P may not be liable for trespass to land. However, because he went further and entered into D's business office, he is liable for trespass to land.

Is P liable for Trespass to Chattel?

**Trespass to chattel** is an intentional act which diminishes the value of another's chattel, creates a substantial interference with another's right to possess chattel, or causes injury to a person's property or any legally protected interest.

Here, P kicked over D's water cooler, destroying it. This creates a substantial interference with D's right to possess the water cooler. Accordingly, P is liable for trespass to chattel.

*conversion*  
Paul (P) v. Dave (D)

Is D liable for negligent misrepresentation?

**Negligent Misrepresentation** occurs when defendant carelessly provides false information to plaintiff, in a situation where defendant owes plaintiff a duty to provide accurate information, and plaintiff justifiably relies on defendant's false information to their detriment. Pure economic loss may be actionable under negligent misrepresentation.

Here, D owed P a duty to provide accurate information as P was a consumer of the services D offered. P's justifiable reliance on D's statements caused him to take out insurance on the wrong storage unit, insuring unit 5 instead of 9, which was the one he was actually assigned. As a result of D's negligent misrepresentation, P suffered the loss of his \$10,000 vase that he could no longer recover because his insurance would not cover the loss.

Is D liable for negligence?

**Negligence** is injury caused by the creation of an unreasonable risk of harm to a foreseeable plaintiff in the zone of danger. It is comprised of duty, breach, causation and damages.

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Here, P is a consumer of D's services. Because of this, a special contractual relationship exists between P and D that gives rise to a duty to act with due care.

A **breach** is a failure to act with due care.

D breaches his duty to act with due care when he carelessly provides false information to P.

**Causation** must be both actual and proximate. **Actual causation** is the factual analysis that requires plaintiff to prove that "but for" defendant's carelessness, plaintiff's harm would not have occurred. If there is more than one potential cause of injury, then plaintiff must use the substantial factor test. **Proximate cause** is the legal analysis portion that requires a reasonably close legal relationship between defendant's carelessness and plaintiff's harm. Proximate cause

may be cut off if plaintiff's harm is too remote in time or distance, there is a superseding intervening act, plaintiff's harm is unforeseeable (wagonmound jurisdictions), or for public policy reasons.

Here, the but for D's carelessness, P's harm would not have occurred and he would have been able to get the correct unit insured and his vase would have been covered under the insurance. Thus, actual cause is met. Here, the facts do not seem to indicate that plaintiff's harm was too remote in time or distance. D may attempt to argue, however, that there was an unforeseeable superseding intervening act when a thief broke into Paul's unit and stole the vase. However, this is not likely to be the case because this type of act is foreseeable and likely the reason that P got insurance in the first place, making this type of harm foreseeable. Nothing in the fact pattern indicates a public policy reason to cut off proximate cause. As such, proximate cause is also present and P meets the elements for causation.

**Damages** are in the form of harm/injury to plaintiff's person or property.

Plaintiff suffered injury to his property and as such, may have a cause of action against D for negligence.

*Is D liable for Intrusion?*

**Intrusion** is the invasion of a privacy in a place, conversation, or matter in which plaintiff was an objectively reasonable expectation of privacy which a reasonably prudent person would find highly offensive.

Here D climbed a tree near P's house and installed a surveillance camera directed at the back of P's home. An individual's home is an objectively reasonable place which society recognizes as containing a reasonable expectation of privacy, an invasion of which would be highly offensive to a reasonable person. By placing a camera directed at P's home, D is liable for intrusion.

*Is D liable for Public Disclosure of Private Facts?*

**Public disclosure of private facts** occurs when material is publicized in a manner which a reasonable person would find highly offensive and is not of legitimate concern to the public.

Here, D publicized the fact that P grew marijuana in his homes. The facts tell us that it was a legal quantity, indicating a multitude of reasons why P could have been growing marijuana in his home, i.e., for medical purposes. Because this publication could be highly offensive to someone using marijuana for medical reasons, and because it is legitimately not of public concern, D is liable to P for public disclosure of private facts.

*Is D liable for Assault?*

**Assault** is an intentional act which creates in another a reasonable apprehension of imminent harmful or offensive touching. The defendant must have the present apparent ability to carry out the act.

Here, D was reaching into his pocket and yelled at P that he was going to shoot him. Paul could reasonably believe he was about to be shot by P. Accordingly, D is liable for assault to P.

**D v. P**

Is P liable for defamation?

**Defamation** is the utterance of a falsehood, of or concerning plaintiff, published to a third party, which results in repetitional harm to plaintiff. Defamation can be written (libel) or oral (slander).

Here, P utters a material falsehood when he falsely advertises on the local paper that D's company is behind the thefts. Because D is the owner, this may qualify as defamation. The facts indicate that D's storage had no involvement in the theft, making this a fact that can be provable as false. This was published in the local paper, satisfying the publication. The facts indicate that D's business suffered significant harm, proving repetitional harm and making P liable for libel under defamation. All libel carries presumed damages due to its permanency.

Is P liable for Injurious Falsehood?

**Injurious falsehood** is the utterance of a falsehood regarding a business, product, or economic interest, motivated by malice that is published to a third party which results in damage to plaintiff.

P's statement was a direct utterance of a falsehood about D's business. P was upset, indicating malice, about what happened to his vase, and so he published in the local news paper an injurious statement about D's business. As such, P is likely liable to D for injurious falsehood.

Is P liable for Intentional Misrepresentation?

**Intentional Misrepresentation** occurs when plaintiff knowingly or recklessly makes a false statement of a material fact, with the intent to induce reliance from plaintiff, which plaintiff does justifiably rely on, resulting in pecuniary harm to plaintiff.

Here, P recklessly entertained serious doubts about the validity of his statement. He intended for his statements to be relied upon by the readers of the papers, which the facts indicate they did rely on, and caused harm to D. Accordingly, P is liable to D for intentional misrepresentation.

Is P liable for Intentional Interference with existing contractual relations?

**Intentional Interference with existing contractual relations** occurs when defendant, by way of his wrongful conduct, disrupts a validly existing contract between plaintiff and a third party, resulting in a breach.

Based on P's wrongful conduct in uttering falsehoods to the public, the facts tell us that renters began to move out of D's storage units. Assuming all renters had validly existing contracts with D, P would be liable to D for intentional interference with contractual relations.

Is P liable for Intentional Interference with Prospective Economic Advantage?

**Intentional Interference with prospective economic advantage** occurs when defendant, by way of his wrongful conduct, disrupts the reasonably likely future economic interest of plaintiff, resulting in damage to Plaintiff.

The facts tell us that D suffered a significant loss in revenue as a result of P's wrongful conduct.

As a result of storage renters moving out, D suffered likely future economic interest that was a direct result of P's actions. P is liable to D for intentional interference with prospective economic advantage.

Is P liable for Trespass to Land?

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

Here, P walked into the business office of D's storage. The facts do not indicate any level of consent for P to have walked into D's business office. Had P stayed in the general lobby area for customers, P may not be liable for trespass to land. However, because he went further and entered into D's business office, he is liable for trespass to land.

Is P liable for Conversion?

**Conversion** is an intentional act which creates a complete or very substantial interference with another's right to possess chattel.

The facts tell us that the water cooler was destroyed. This is a complete interference with D's right to possess the cooler. P is liable for conversion.

Is P liable to D for Battery?

**Battery** is the intentional harmful or offensive touching of another without consent.

**Self defense** is a defense that may be used by an individual who reasonably believes they are about to be the victim of a harmful touching without their consent.

Here, P charged at Dave and tacked him. This is a harmful touching without D's consent. However, P has a valid self-defense claim because P reasonably believed that D was about to harm him. Self defense, even if you are wrong, is still valid so long as it is objectively reasonable to believe you were in danger.

Is P liable for Prima Facie Tort?

**Prima Facie Tort** exists when defendant does an intentional act, with the intent to cause Plaintiff harm, and plaintiff does suffer harm.

Here, P intentionally publicized false material regarding D's business, intending to cause P harm. The facts tell us that P did in fact suffer damages and reputational harm (as his reputation decreased resulting in lost storage renters). As such, P is liable to D for Prima Facie Tort.

**END OF EXAM**