

ADVANCED TOPICS IN PRIVATE LAW: FINAL TAKE-HOME TEST

You have to answer the question from section A and then any three questions from section B, i.e., a total of FOUR questions. For the scenarios, you will need to provide the applicable rule. If it is a negligent tort, you will need to think what the standard of care is and include it. For intentional torts, you will have to use the rules that we discussed in class (and the class notes and slides). All scenarios take place in Sault Ste. Marie, Ontario. Make sure that you don't make up or infer facts from the case. If there is not enough information about a fact in the case, say so. For the analysis of the scenarios, use the chart suggested for the midterm and amply discussed in class. This take-home exam evaluates your ability to apply the theories, methods, and principles that we discussed in class, which are also included in the class notes and slides). **You have to apply the law as we discussed in class**, even if that is a simplification of the existing Canadian law. For example, if we discussed a certain rule with no exceptions, then you have to apply that rule as seen in class, even if there is an exception to that rule in Canada. For the other questions, please make sure that you **precede every argument or idea by its corresponding heading**. In all your answers, you must refer only to sources (topics, theories, elements, examples, readings, cases, etc.) that we discussed in class. **No outside sources may be referred to or included in your answers**. You are not permitted to consult with anyone about this test. I will be glad to answer any questions you may have about the test during class on Monday, November 23. After that, please do not ask me questions about the test. As a matter of fairness, I do not want to give answers to some students that others do not have the benefit (or detriment) of hearing. You will simply have to use your own judgment about how to handle any possible difficulties, including the interpretation of the questions and tasks. Please note that everything we discussed during the live sessions is included in the notes and slides posted on the course website. So, if you missed a live session you still have the information on the course website. **Submission:** You need to submit this evaluation to the Algoma University Moodle platform for this course by the deadline, i.e., November 30, 2020 by 10.00 pm EST. If you have technical difficulties, you can send this evaluation to me by email in an MS Word attachment. In that case, please write "PRIVATE LAW FINAL TAKE-HOME. JURI 3906" as the subject of the email.

Section A: Required (25%).

1. Analyze the following scenario according to the laws of intestate successions as discussed in class.

Fred and Wilma were married for 10 years. They had one daughter, Pebbles. Two months before his death, Fred met Betty. They fell in love; and she became his mistress. A few weeks after they met, Betty became pregnant. Fred financially supported Betty until he died. Seven months after Fred's death, Betty gave birth to her and Fred's son, Bam Bam. Fred died with no will.

Section B: Choose THREE questions (25% each)

2. Analyze Moe's liability in the following scenario according to the law of torts as discussed in class .

Moe drove at 20 km/h over the speed limit. Curly jaywalked while texting. Moe tried to slow down but ran over Curly. An expert witness correctly determined that Curly suffered reasonably foreseeable damages of \$100,000.

3. Private International Law rules on contracts emphasize the importance of the place of performance (common law) when there is no express choice of law. Discuss what the place of performance is. Give, at least, three specific examples to illustrate your explanation. Can a general definition of the place of performance be given that would apply to all contracts? If so, how would you define this term?
4. Briefly explain the following quote. Give specific examples to illustrate your explanation. If you disagree with some aspects, please say so.

Legislatures regulate contracts for a variety of social, economic, and political reasons. The main goals of such regulation are to control the activity that is the subject matter of the contract or to protect one party to the contract from the untrammelled exercise by the other of its power to set the terms of the agreement. Such regulatory measures are constraints on the parties' freedom to agree on any terms they see fit or, in the case of standard form contracts, any terms that the drafter of the form succeeds in getting the other party to agree to.

5. Torts can be classified as intentional, negligent, and strict liability. Where would recklessness fit? Give examples to illustrate your explanation. Please remember that in Criminal Law,

recklessness takes place when the accused disregards a substantial and unjustifiable risk of which he is aware.

6. "Ontario intestate succession rules tend to favor the deceased's children over the surviving spouse." Do you agree with this statement? Why or why not? Give specific examples to illustrate your answer.
7. Make up a scenario of a negligent tort, including the facts of the case and the rule. There must be 100% concurrence between the facts of the case and the elements of the rule.
8. Make up a scenario of an international tort where the substantive law governing the tort is different from the jurisdiction of the court that will hear the case.
9. Briefly explain the following quote. Give specific examples to illustrate your explanation. If you disagree with some aspects, please say so.

Many modern families do not take the form of the traditional nuclear family. A common variant is the stepfamily, formed when the parent of a minor child marries an individual who is not the other natural parent. In many cases, the relationship that forms between stepparent and child is an important family relationship. Nevertheless, the laws regulating the rights and duties of family members generally exclude stepfamily members. The law of intestate succession illustrates the peremptory manner in which the legal system ignores stepfamilies. Stepfamily members are not eligible to inherit from each other under modern intestate succession statutes. The exclusion of a significant category of family members, namely, stepfamily members, from rights of inheritance is unfair and inconsistent with the purpose of the intestacy laws.

10. Find a news article dealing with a torts case in Ontario. Summarize it and critically analyze it.