

ADVANCED TOPICS IN PRIVATE LAW: TAKE-HOME TEST

You have to answer ALL 5 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. Use the suggested **chart to analyze the scenarios** as discussed in class (and the class notes and slides). This take-home exam evaluates your ability to apply the theories, methods, and principles that we discussed. Thus, **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, you are also strongly encouraged to use the suggested format included on the course website. If you do not follow the suggested format and answer in essay format, 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 (or that are in the class notes and slides if you missed class). **No outside sources may be referred to or included in your answers**. You are not permitted to consult with anyone about this test. 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. Please do not ask me questions about the test once this test is posted online. 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. **Submission:** You need to submit this evaluation to the Algoma University Moodle platform for this course by the deadline, i.e., **October 26, 2020 by 7.00 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 TEST. JURI 3906" as the subject of the email. We will not have a live session on Oct. 19 so that you can work on this test.

Section A: Required (30%).

1. Analyze the following scenario according to the law of torts as discussed in class (or the notes and slides).

Rachel is a single mother. She takes her three-year-old son, Joey, to Bellevue Park. Rachel starts talking with another young parent, Ross. Rachel is distracted by Ross' conversation. Meanwhile, Joey starts to wander over to Queen St. Ross notices a possible catastrophe and rushes out after Joey. Ross just manages to save Joey from being run over by Chandler, who is driving a van within the speed limit and quite safely. However, Ross has too much forward momentum and collides with Chandler's van. Ross is seriously injured. Chandler skids off the road and manages to stop the car.

Section B: Required (30%)

2. Analyze the following scenario according to the law of torts as discussed in class (or the notes and slides).

Fred was injured when the car in which he and Betty were traveling slid off an icy Highway 17 during a winter storm and overturned. At the time of the accident, Betty was driving the car. Fred was sitting in the front passenger seat, wearing his seat belt. Betty was driving 76 km/h at the time of the accident, although the posted speed limit was 80 km/h. Fred and Betty were rushed to the Sault Area Hospital (SAH) in its ambulance as they were both seriously injured. There, hospital surgeons performed emergency surgery on the man. Fred remained at SAH for 10 days following his admission, as he was infected with an intra-hospital virus, which resulted in his death.

Section C: Required (20%)

3. Briefly explain the following quote. If you disagree with some aspects, please say so.

It is hard to see why an action should be viewed as intentional simply because it is more likely to occur by some unspecified degree. Another difficulty is to see why liability should be limited to cases of substantial certainty.

Section D: Required (20%)

4. Give three examples of non-compulsory Private Laws from Canada and explain why they are not mandatory. You may do an online search of examples or you may create your own realistic but not necessary real examples.

5. Discuss the processes of harmonization and unification of Private Law. List 3 examples of each process. You may do an online search of examples or you may create your own realistic but not necessary real examples.