

Torts Restatement Problems Practice Test (Sample)

Study Guide



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SAMPLE

Questions

- 1. Under which circumstances can a bystander recover damages for emotional distress?**
 - A. If they were present but unrelated to the victim**
 - B. If they were closely related, present, and witnessed the injury**
 - C. If they hear about the injury later**
 - D. If they have a financial interest in the outcome**
- 2. Is Caryn liable for intentional infliction of emotional distress after alarming Mike's roommate?**
 - A. Yes, she intended to harm Mike directly**
 - B. No, the emotional harm must be directed at the target**
 - C. Yes, Gordie was affected by her call**
 - D. No, she did not know Gordie would answer**
- 3. In the context of agency, who is the "principal"?**
 - A. The individual authorized to act for another**
 - B. The person who brings a lawsuit**
 - C. The party that provides legal representation**
 - D. The party who is being sued**
- 4. What type of consent is not effective in the context of A's entry onto B's land?**
 - A. Verbal consent**
 - B. Consent given under duress**
 - C. Implied consent**
 - D. Written consent**
- 5. What is meant by "wrongful death" in the context of tort law?**
 - A. A claim by the deceased person's estate for their own injuries**
 - B. A claim initiated by beneficiaries of a deceased against those responsible for the death**
 - C. A claim for damages related to emotional distress only**
 - D. A defense against tort claims**

- 6. When A points a pistol at B but is stopped before he can shoot, does this constitute assault?**
- A. Yes, because the threat was real**
 - B. No, because B had no apprehension of danger**
 - C. Yes, because B turned around**
 - D. No, because the gun was not fired**
- 7. What is the "rule of sevens" related to?**
- A. Determining liability based on a defendant's age**
 - B. Assessing damages in personal injury cases**
 - C. Evaluating a child's capacity to be held liable for torts**
 - D. Selecting jurors based on their age**
- 8. In the context of an injury caused by emotional distress, which of the following determines recovery possibilities?**
- A. Proximity to the event**
 - B. The severity of the emotional response**
 - C. The relationship to the harmed party**
 - D. The circumstances surrounding the event**
- 9. In what situation might "foreseeability" be crucial in a tort case?**
- A. When determining if the defendant's actions caused emotional distress**
 - B. When deciding if the plaintiff should receive punitive damages**
 - C. When establishing the reasonable boundaries of a defendant's liability**
 - D. When assessing the reputation of the plaintiff**
- 10. If A mines coal from under B's land by mistake, is he liable for trespass?**
- A. Yes, A is liable despite the mistake.**
 - B. No, reasonable mistake negates liability.**
 - C. Only if B proves damage from the mining.**
 - D. No, A is acting as a reasonable person would.**

Answers

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1. B
2. B
3. A
4. B
5. B
6. B
7. C
8. C
9. C
10. A

SAMPLE

Explanations

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1. Under which circumstances can a bystander recover damages for emotional distress?

- A. If they were present but unrelated to the victim**
- B. If they were closely related, present, and witnessed the injury**
- C. If they hear about the injury later**
- D. If they have a financial interest in the outcome**

A bystander can recover damages for emotional distress primarily under circumstances that involve a close relationship with the victim, presence at the scene, and direct observation of the traumatic event. This principle is grounded in the notion that witnessing a traumatic incident can result in significant emotional harm, particularly for those who have a strong familial or emotional connection to the victim. When a bystander is closely related to the victim and directly witnesses the injury, the law recognizes that the distress experienced is more legitimate and immediate, which justifies allowing them to seek damages. This aligns with established case law and Restatement principles regarding emotional distress claims. In contrast, other scenarios do not meet the criteria necessary for recovery. If the bystander is unrelated to the victim, hears about the injury later, or has only a financial interest in the outcome, those factors do not establish a sufficient basis for emotional distress claims. The emotional impact of an incident is generally less palpable in those other situations, making it difficult to substantiate a claim of this nature.

2. Is Caryn liable for intentional infliction of emotional distress after alarming Mike's roommate?

- A. Yes, she intended to harm Mike directly**
- B. No, the emotional harm must be directed at the target**
- C. Yes, Gordie was affected by her call**
- D. No, she did not know Gordie would answer**

The correct answer is based on the principle that for a claim of intentional infliction of emotional distress (IIED) to be established, the emotional harm must be directed at the person claiming the distress. In this context, while Caryn's actions may have been distressing to Gordie, the critical factor is that Caryn did not intend to target Gordie; rather, her intent was likely focused on Mike. IIED requires that the defendant's conduct be intentional or reckless, that it be extreme and outrageous, and that it cause severe emotional distress to the targeted individual. In this case, if Caryn's actions were aimed specifically at Mike but unintentionally affected his roommate, Gordie, it does not satisfy the requirement that the distress must be directed at the individual experiencing the harm. Thus, the claim cannot be sustained based on Gordie's experience alone, making this interpretation of the facts crucial in understanding the application of IIED standards in tort law.

3. In the context of agency, who is the "principal"?

- A. The individual authorized to act for another**
- B. The person who brings a lawsuit**
- C. The party that provides legal representation**
- D. The party who is being sued**

In the context of agency, the "principal" refers to the individual who authorizes another person (the agent) to act on their behalf. This relationship is foundational to agency law, as the principal grants the agent the authority to perform certain actions or make decisions as if they were the principal themselves. This might include entering into contracts or managing tasks relevant to the principal's interests. The other options do not accurately define a principal in this context. The party bringing a lawsuit is typically known as the plaintiff, while the party providing legal representation is often called the attorney or lawyer. The party being sued is referred to as the defendant. These roles are distinct from that of a principal in an agency relationship, which emphasizes the authorization aspect where one party acts on behalf of another.

4. What type of consent is not effective in the context of A's entry onto B's land?

- A. Verbal consent**
- B. Consent given under duress**
- C. Implied consent**
- D. Written consent**

Consent given under duress is not effective in the context of A's entry onto B's land because it does not reflect the true and voluntary agreement of B. Duress involves coercion or threats that compromise the voluntary nature of consent, meaning that any agreement made under such conditions is void. For consent to be legally recognized, it must be given freely and without undue pressure or coercion. In contrast, verbal consent, as long as it is given freely and willingly, can be effective. Consent implied by circumstances can also serve as valid consent if a reasonable person would interpret actions as consenting to the entry. Written consent is typically seen as a stronger form of agreement. Each of these options generally establishes the ability of A to enter B's land legally, while consent given under duress fails to meet the necessary legal standard.

5. What is meant by "wrongful death" in the context of tort law?

- A. A claim by the deceased person's estate for their own injuries
- B. A claim initiated by beneficiaries of a deceased against those responsible for the death**
- C. A claim for damages related to emotional distress only
- D. A defense against tort claims

In tort law, "wrongful death" refers specifically to a legal claim brought by beneficiaries of a deceased individual against individuals or entities responsible for that person's death. This type of claim seeks to compensate the surviving family members or beneficiaries for their losses resulting from the death, such as loss of financial support, companionship, and emotional suffering. The distinction in this context is key: wrongful death claims do not arise from the deceased person themselves, as they are no longer capable of initiating legal action due to their death. Instead, the claim is centered on the impact of the death on those left behind. Beneficiaries may include spouses, children, and sometimes parents or other dependents, depending on the laws of the jurisdiction. Other options mischaracterize the nature of wrongful death claims. For example, a claim for the deceased person's injuries would not qualify under wrongful death; instead, such claims are typically categorized under personal injury law. Emotional distress claims are not exclusive to wrongful death actions but can be part of many different tort actions. Lastly, wrongful death does not serve as a defense against tort claims; rather, it is a means for pursuing compensation.

6. When A points a pistol at B but is stopped before he can shoot, does this constitute assault?

- A. Yes, because the threat was real
- B. No, because B had no apprehension of danger**
- C. Yes, because B turned around
- D. No, because the gun was not fired

In tort law, specifically under the definition of assault, it is crucial to focus on whether the victim had a reasonable apprehension of imminent harmful or offensive contact. In this scenario, the critical point revolves around B's perception and whether A's actions created a valid apprehension of harm. For B to succeed in a claim of assault, there must be evidence that he consciously understood the threat posed by A; in other words, B must have experienced apprehension of impending danger. If B did not have any apprehension of danger—meaning that he did not realize he was in a threatening situation or he felt completely safe—there can be no assault, regardless of A's intention or the presence of a firearm. Thus, the reasoning behind the correct answer highlights that without B's apprehension of danger, the essential element of assault is missing. This ensures that legal definitions maintain their integrity, where a subjective perception of threat is foundational to establishing assault. The other options either misconstrue the criteria for assault or rely on actions (like turning around or the gun not being fired) that do not directly relate to B's psychological state at the moment of the threat.

7. What is the "rule of sevens" related to?

- A. Determining liability based on a defendant's age**
- B. Assessing damages in personal injury cases**
- C. Evaluating a child's capacity to be held liable for torts**
- D. Selecting jurors based on their age**

The "rule of sevens" pertains to evaluating a child's capacity to be held liable for torts. This rule is traditionally used to determine the age at which children can be considered capable of negligence. Under this principle, the common law often divides childhood into three distinct age groups: under seven years old, between seven and fourteen, and fourteen years and older. Children under the age of seven are typically presumed to lack the capacity to commit torts or be held liable for negligent conduct; they are considered incapable of understanding the consequences of their actions. Those aged between seven and fourteen may be held liable, but the presumption is that they still lack the full capacity to understand the nature of their actions fully. However, if evidence suggests a particular child in this age range had the maturity to understand the risks associated with their actions, liability may still be imposed. Children aged fourteen and older are generally regarded as capable of being held to the same standard of care as adults regarding tortious behavior. The rule of sevens establishes a structured way to assess a child's ability to understand their actions and, consequently, their liability under tort law.

8. In the context of an injury caused by emotional distress, which of the following determines recovery possibilities?

- A. Proximity to the event**
- B. The severity of the emotional response**
- C. The relationship to the harmed party**
- D. The circumstances surrounding the event**

In cases involving recovery for emotional distress, the relationship to the harmed party is a crucial factor. The law often recognizes different levels of recovery based on this relationship. For instance, close family members of a person who is harmed may be entitled to compensation for emotional distress even if they were not directly involved in the event itself. Courts typically draw a distinction between bystanders and those who are directly involved or have a close relationship with the victim, as the emotional impact is often more profound for those who have a close bond. For example, if a parent witnesses their child being harmed, they may have a stronger claim for emotional distress damages than a stranger observing the same event. This principle aligns with the idea that the closer the relationship, the more likely severe emotional distress will be caused by witnessing or learning about the harm that befell a loved one. While proximity to the event, severity of the emotional response, and circumstances surrounding the event are relevant factors, they are often secondary to the established legal precedent regarding familial relationships and emotional distress claims.

9. In what situation might "foreseeability" be crucial in a tort case?

- A. When determining if the defendant's actions caused emotional distress**
- B. When deciding if the plaintiff should receive punitive damages**
- C. When establishing the reasonable boundaries of a defendant's liability**
- D. When assessing the reputation of the plaintiff**

Foreseeability is a fundamental concept in tort law, particularly in determining the extent of the defendant's liability. It refers to whether a reasonable person in the defendant's position could have anticipated the potential consequences of their actions. In the context of establishing reasonable boundaries of a defendant's liability, foreseeability helps determine whether the harm suffered by the plaintiff was a predictable result of the defendant's conduct. In tort cases, if the harm is deemed foreseeable, it can establish a causal link between the defendant's actions and the injury sustained by the plaintiff, thus affirming that the defendant can be held liable for that harm. This aspect is pivotal, especially in negligence claims where the standard is whether the defendant acted as a reasonable person would under similar circumstances. The other contexts mentioned in the options, such as emotional distress or punitive damages, may incorporate issues related to foreseeability but do not hinge upon it in the same fundamental way that establishing the boundaries of liability does. Thus, the most direct link between foreseeability and the liability of a defendant is captured in establishing reasonable limits on that liability.

10. If A mines coal from under B's land by mistake, is he liable for trespass?

- A. Yes, A is liable despite the mistake.**
- B. No, reasonable mistake negates liability.**
- C. Only if B proves damage from the mining.**
- D. No, A is acting as a reasonable person would.**

In this scenario, the correct answer is that A is liable despite the mistake. The concept of trespass in tort law typically does not hinge on the intent or knowledge of the trespasser regarding the ownership of the land or any mistake made in entering it. Trespass is defined as an unauthorized entry onto someone else's property, and that can occur regardless of the actor's intentions or state of mind. In this case, A mined coal from beneath B's property, which constitutes a physical invasion of B's land. The fact that this act was carried out by mistake does not absolve A of liability; entering and exploiting natural resources from another person's land without consent is a trespass. Even reasonable beliefs regarding one's right to enter the land do not eliminate liability. Other options suggest that a reasonable mistake or the absence of damage might negate liability, but in the context of tort law related to trespass, these factors are generally irrelevant. Trespass is deemed actionable per se, meaning that even if there is no actual harm or damage, the unauthorized entry itself is sufficient to establish liability. Thus, A's mistake does not provide a valid defense against the claim of trespass by B.