How to Write a Torts Exam

Follow your professor’s specific directions. In absence of specifics, consider the following:

• Read the call of the question. Often it signals the adversarial parties who should be discussed. E.g., “What are Mary’s rights against the manufacturer?”

• If the call of the question merely states, “Discuss,” then you must decide who the proper parties are in the lawsuits and determine the legal theories under which they can sue.

• Using the UMD – Law Essay Outline Chart, before you respond in Blue Book or Exam Soft, briefly map out the parties, the legal theories, the opposing parties, the defenses, noting the relevant facts that support each claim or defense. It will focus your exam response.

• Analyze these legal theories from the opposing party’s point of view who will, of course, argue that the elements giving rise to the causes of action are not met or are met but otherwise justified.

• Unless otherwise directed, you do not have to answer chronologically or in sequence. You should start, then, with an area of strength. It will help you build confidence as the exam progresses.

• Signpost. Label your answer as follows: Mary v. Manufacturer. You can also just label your response as Mary and then discuss below the various defendants against whom Mary has a potential cause of action.

• Brainstorm reasonable, non-frivolous causes of action and discuss merits of each. E.g., a plaintiff, injured by a snow blower may allege 1) strict liability 2) negligence 3) warranty theory violations.

• Responses should be in IRAC format. If a plaintiff has a negligence cause of action against several defendants, it is not necessary to repeat a negligence definition.

• Frequent use of the word, “because,” in the analysis helps provide factual support. E.g., “Because the pharmacist specifically told John his diabetes would be cured with the medication, John may sue on an express warranty theory.”

• If time allows, spend a few minutes at the end to re-read the fact pattern to see if there are issues or sub-issues you might have missed.

• If you run out of time, do not admit it. Instead, list the issues/defenses that you would have discussed with more time and try to briefly define them.

• Dot your i’s, cross your t’s, and proofread for grammar and legibility.

• Submit with confidence.