

TORT HYPOTHETICALS

Determine the following in each hypothetical:

- (a) Whether a tort has been committed.
- (b) If yes, which category does the tort fall into?
- (c) Who was at fault?
- (d) What amount of damages do you think is fair?

List of torts

Assault
Battery
Strict Liability
Negligence
False Imprisonment
Nuisance
Intentional Infliction of Emotional Distress

1. As a joke, Annette removes the bullets from her father's revolver; takes the gun outside, and points it at the head of her neighbor, Mrs. Joiner, who is just leaving her hose. Mrs. Joiner, who unknown to Annette suffers from serious heart disease has a stroke and dies instantly.

- (a)
- (b)
- (c)
- (d)

2. Kathleen, 17, is in a record store. As she passes a rack of compact discs, she quickly slips one under her jacket. Thinking that no one has noticed, she turns to leave the store. The store manager, however was watching her on a closed-circuit television. As soon as she passes the cash register, he stops her, before she leaves the store. The manager calls the police and keeps Kathleen in his office until they come.

- (a)
- (b)
- (c)
- (d)

3. The defendant's dog known to have a propensity to bite, bit the plaintiff after the defendant's servant mischievously let the dog loose. *Baker v. Snell* (1908)

- (a)
- (b)
- (c)
- (d)

4. Baxter purchased an automobile from Ford that they claimed was equipped with a windshield that was shatterproof. Baxter was later injured when the windshield shattered. *Baxter v. Ford Motor Co.* (1932)

- (a)
- (b)
- (c)
- (d)

5. Mary Murray sued Wal-Mart, claiming she was unreasonably detained by the store's employees who suspected her of shoplifting. The plaintiff claims profane and racially derogatory comments were directed to her by the manager in front of her daughter, grandchildren, and the general public. As a result of this humiliation, she acquired a nervous condition. *Murray v. Wal-Mart, Inc.*

- (a)
- (b)
- (c)
- (d)

6. Seth and Ferman argue over who should have been a basketball game. Ferman insults Set's favorite team, the Buckets. He calls its players lazy, worthless, and lucky. Seth is outraged. He has been a Bucket fan for years. Losing all control, Seth punches Ferman in the mouth. Ferman suffers two broken teeth, three chipped teeth, and a badly cut lip that requires 10 stitches. His dental bills total \$2,000 and he misses five days of work as a result of his injury. He also requires pain medication for a week and is extremely uncomfortable. Seth needs 4 stitches in his hand.

- (a)
- (b)
- (c)
- (d)

7. Wells left his golf club lying on the ground in his backyard. While playing in the yard, Wells' son swung the club hitting and injuring Lubitz. *Lubitz v. Wells (1955)*

- (a)
- (b)
- (c)
- (d)

8. Williams was severely burned when a gasoline drum distributed by Gulf Refining Co. exploded due to a spark produced by the poor condition of the cap. *Gulf Refining Co. v. Williams (1938)*

- (a)
- (b)
- (c)
- (d)

9. Mr. Iwamoto works the 11:00pm to 7:00am shift at the factory and then comes home to sleep. On his way to school, Tommy James walks by Mr. Iwamoto's house every week-day at 8:30am with his "boom box" blaring. The loud music awakens Mr. Iwamoto.

- (a)
- (b)
- (c)
- (d)

10. Sandy, 17, throws a snowball at a friend on a crowded street corner. The snowball missed the friend but hits an elderly man who falls to the ground and is injured.

- (a)
- (b)
- (c)
- (d)

HYPOTHETICALS

Determine the following in each hypothetical:

- (e) Whether a tort has been committed.
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1. As a joke, Annette removes the bullets from her father's revolver; takes the gun outside, and points it at the head of her neighbor, Mrs. Joiner, who is just leaving her hose. Mrs. Joiner, who unknown to Annette suffers from serious heart disease has a stroke and dies instantly.

Answer: Assault. The fact that the harm is greater than expected is no defense.

2. Kathleen, 17, is in a record store. As she passes a rack of compact discs, she quickly slips one under her jacket. Thinking that no one has noticed, she turns to leave the store. The store manager, however was watching her on a closed-circuit television. As soon as she passes the cash register, he stops her, before she leaves the store. The manager calls the police and keeps Kathleen in his office until they come.

Answer: No false imprisonment. It would be false imprisonment to detain Annette for an unreasonable period of time.

3. The defendant's dog known to have a propensity to bite, bit the plaintiff after the defendant's servant mischievously let the dog loose. *Baker v. Snell* (1908)

Answer: Strict Liability. The owner of the dog is still liable even though a third-party let the dog loose.

4. Baxter purchased an automobile from Ford that they claimed was equipped with a windshield that was shatterproof. Baxter was later injured when the windshield shattered. *Baxter v. Ford Motor Co.* (1932)

Answer: Strict Liability.

5. Mary Murray sued Wal-Mart, claiming she was unreasonably detained by the store's employees who suspected her of shoplifting. The plaintiff claims profane and racially derogatory comments were directed to her by the manager in front of her daughter, grandchildren, and the general public. As a result of this humiliation, she acquired a nervous condition. *Murray v. Wal-Mart, Inc.*

Answer: Intentional infliction of emotional distress. Mary also received \$15,000 in actual damages for medical attention, \$10,000 in punitive damages, and \$7,850 in attorney fees.

6. Seth and Ferman argue over who should have won a basketball game. Ferman insults Set's favorite team, the Buckets. He calls its players lazy, worthless, and lucky. Seth is outraged. He has been a Bucket fan for years. Losing all control, Seth punches Ferman in the

month. Ferman suffers two broken teeth, three chipped teeth, and a badly cut lip that requires 10 stitches. His dental bills total \$2,000 and he misses five days of work as a result of his injury. He also requires pain medication for a week and is extremely uncomfortable. Seth needs 4 stitches in his hand.

Answer: Seth has committed battery or assault depending on the local laws.

7. Wells left his golf club lying on the ground in his backyard. While playing in the yard, Wells' son swung the club hitting and injuring Lubitz. *Lubitz v. Wells* (1955)

Answer: Conduct that usually presents no danger is not unreasonable and hence presents no danger.

8. Williams was severely burned when a gasoline drum distributed by Gulf Refining Co. exploded due to a spark produced by the poor condition of the cap. *Gulf Refining Co. v. Williams* (1938)

Answer: Even if an injury causing event is improbable, one may be negligent if there is some real and appreciable likelihood of damage in particular situation in that person does not take action to avoid that damage.

9. Mr. Iwamoto works the 11:00pm to 7:00am shift at the factory and then comes home to sleep. On his way to school, Tommy James walks by Mr. Iwamoto's house every week-day at 8:30am with his "boom box" blaring. The loud music awakens Mr. Iwamoto.

Answer: There is no single right answer. Students should recognize the concerns of both parties.

10. Sandy, 17, throws a snowball at a friend on a crowded street corner. The snowball missed the friend but hits an elderly man who falls to the ground and is injured.

Answer: Battery.