Law 300 // Prof. Garet // Spring, 2016
Practice Short Answer Questions
As you know (syllabus §8), both the midterm and the final exam will include short answer questions. You can expect that the instructions and the kinds of questions asked will be similar to those below.

I. Instructions
Read each question carefully, then write your answer in the space provided (which has lines for this purpose, like lined notebook paper). Do not write longer answers that go beyond the space provided. Only answers within the space provided will count. Write succinctly but in complete sentences. Notice that some questions have sub-parts. Read the entire question, along with its sub-parts, before answering any part of the question.

II. Short answer questions

1. (This question has multiple parts.) A state statute provides that “persons who exceed the posted speed limit are liable for damages they inflict.” Defendant drove her car faster than the posted speed limit, and crashed into plaintiff, injuring him. The trier of fact has determined that the crash was caused by an unforeseeable oil slick on the road, and that the crash would have happened even if defendant had been driving within the speed limit. The judge must decide what the statute means.

1a. In one sentence, state defendant’s interpretation of the statute.

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1b. In one sentence, state plaintiff’s interpretation of the statute.

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1c. In one sentence, explain which interpretation is better, and why.

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2. (This question has multiple parts. The last part of the question continues on the next page.) At T1, the Tennessee Supreme Court decided Boyd v. Coca Cola Bottling Works (cigar stub in bottle of Coca Cola; defendant owed duty of care to plaintiff). At T2, the same court decided Liggett and Myers Tobacco Co. v. Cannon (L&M) (bug in chewing tobacco; defendant did not owe duty of care to plaintiff). Shortly thereafter, at T3, the same court must decide Bice v. Jack Daniels Distillery. In the trial court in the Jack Daniels case, the trier of fact determined that plaintiff Bice was injured when he drank several sips from a jug of Jack Daniels Whiskey; the whiskey was made and bottled in the jug by defendant; plaintiff bought the jug of Jack Daniels from an intermediate dealer, not from defendant; the cause of the injury was a dead lizard in the jug of whiskey; because plaintiff broke the seal on the jug just before he sipped from it, the lizard must have gotten into the jug at the defendant distillery; and plaintiff could not see the lizard in the ceramic jug.

In the Tennessee Supreme Court, the defendant distillery argues that it owes the plaintiff no duty of care because of the absence of privity between it and plaintiff.

2a. In one sentence, state a holding on the duty of care issue in the Jack Daniels case that satisfies the principle of stare decisis in relation to Boyd and L&M.

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2b. Explain how this holding is consistent with Boyd and L&M.

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(Question two continues on the next page.)
2c. *(This is the last part of question two.)* Jack Daniels Whiskey is made in Tennessee. Suppose the Jack Daniels Distillery is a major employer in Tennessee. Defendant’s legal briefs argue that imposing a duty of care on the Distillery would damage its business and harm the overall Tennessee economy. Plaintiff’s legal briefs argue that imposing a duty of care on the Distillery would help the Distillery’s business and help the overall Tennessee economy. Under *Boyd* and *L&M*, is this argument between Defendant and Plaintiff relevant to the duty of care issue? Circle one answer: YES or NO. Explain and justify your answer.

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3. Justice O’Connor begins her opinion for the Court (majority opinion) in *Smith v. United States* by stating the issue (question of law): “We decide today whether the exchange of a gun for narcotics constitutes ‘use’ of a firearm… within the meaning of 18 U.S.C. §924(c)(1).” Explain, by succinctly setting out the conflicting reasons for decision, why that issue was hard to decide.

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4. When an appellate court decides the question of law presented in the appeal, it produces an issue answer (also known as a decision rule), a holding, and a disposition. Briefly explain or define these three concepts.

5. (This question has multiple parts, and continues on the next page.) In the State of East Dakota the crime of burglary is defined by statute §345 as follows:

   Burglary is the breaking [Y1] and entering [Y2] of a dwelling of another [Y3] at night [Y4] with the purpose to commit a crime therein [Y5].

(Each Y-category is what lawyers call an “element.” Together, they comprise what lawyers call “the elements of burglary” in East Dakota.) Now consider the following fact pattern.

   At approximately 6:30 p.m., Susan, a newly sworn-in attorney, was happily walking down the street when she saw a lovely pearl necklace in Julie’s Jewelry shop window. Susan thought how it would be nice to have the pearls to celebrate her recent bar passage, but knew she couldn’t afford them since she had spent all her savings on law school and bar exam preparation.

   “I think I’ll steal them,” she thought. Susan then noticed that the window behind which the pearls lay was open about 6 inches. She put her hand through the opening, but just before she touched the pearls, she changed her mind because she was afraid she would jeopardize her state bar license and her career as an attorney. She then withdrew her hand and continued walking down the street.

Susan has been charged with burglary. Look carefully at each Y-category (each element) of burglary in §345. Look carefully at the facts stated in the fact pattern, above. Then circle the best answer to each question on the next page, and explain your answer.
5a. Do the facts satisfy the element of “breaking” [Y1]? Yes No

5b. Do the facts satisfy the element of “entering” [Y2]? Yes No

5c. Do the facts satisfy the element of “dwelling of another” [Y3]? Yes No

5d. Do the facts satisfy the element of “at night” [Y4]? Yes No

5e. Do the facts satisfy the element of “with the purpose to commit a crime therein” [Y5]? Yes No

End of practice short answer questions