

Sharaf

**MOTIONS AND PRETRIAL LITIGATION PRACTICE  
FINAL EXAMINATION, SPRING, 2012**

This is an open book examination which you have two hours to complete. Identify yourself by placing your student identification number on the cover of the blue book. Please read each question carefully and write your responses in the blue books. Be sure to clearly identify to which question you are responding.

**Claim Summary**

The fatal shooting of Trayvon Martin by George Zimmerman took place on February 26, 2012. Trayvon Martin was a 17-year-old African American male who was unarmed; George Zimmerman is a 28-year-old biracial Hispanic American who was the community\_watch coordinator for the gated community where the shooting took place.

While on a private errand, Zimmerman saw Martin walking inside the gated community where he was visiting his father and his father's fiancée. Zimmerman called the Police\_Department to report Martin's appearance and behavior as suspicious. Shortly afterwards, there was an altercation, which ended with Zimmerman fatally shooting Martin once in the chest at close range.

When police arrived on the scene, Zimmerman told them that Martin had attacked him, and that he had shot Martin in self-defense. Zimmerman was bleeding from the nose and had a wound on the back of his head. EMTs treated Zimmerman at the scene, after which he was taken to the Police department where he was questioned for hours, taped a video statement, and was released without being arrested. Police said that they had not found evidence to contradict his assertion of self-defense.

**QUESTIONS**

1. Parents of Trayvon Martin now come to you and ask you to represent them in a civil claim.
  - a. Would you? Why or why not?
  - b. What additional information would you require?
2. Assume for this question only, that you have decided to represent the parents of Trayvon Martin.
  - a. Who would you sue?
  - b. What are your theories of liability?
3. Assume for this question only, that George Zimmerman comes to you and tell you that he received a summons and complaint from the parents of Trayvon Martin "a month or so ago" and "didn't think much of it." What would you do?
4. Assume for this question only that you have been retained to represent the gated community in this matter.

- a. Would Mass.R.Civ.Proc. Rule 12 be applicable? Why or why not?
  - b. Would you consider a third-party complaint? Why or why not?
  - c. What would you do prior to answering the complaint?
5. Assume for this question only that you are representing the parents of Treyvon Martin and you are about to begin the discovery phase of this action.
- a. What type of questions would you ask in your interrogatories to the defendant, George Zimmerman?
  - b. What type of documents would you seek in your request for production to the defendant, the gated community?
  - c. Would you consider serving a request for admissions on the defendant, George Zimmerman? Why or why not?
6. If you are representing the parents of Treyvon Martin and the attorney for George Zimmerman refuses to provide you with a copy of Zimmerman's gun license, which you asked for in your document request, what would you do and how would you do it? What rule supports your position?
7. If this case was brought in the Superior Court and your opponent files a discovery motion directly with the court, is this proper? On what rule and/or standing order do you base your answer? How should the motion have been filed?
8. Your client is about to be deposed, how would you prepare?
9. Is summary judgment a consideration if you were representing any of the parties in this action? Why or why not?
10. If you were representing the parents of Treyvon Martin in this action would you consider an attachment, trustee process or an injunction? Why or why not?
11. At the pretrial conference you learn for the first time that your opponent intends to call an expert witness not previously identified. What would you do?
12. Compare what you have learned in Motions and Pretrial practice during this semester to the movie "A Civil Action" or to any other movie or television program which portrays litigation. Is it accurate or not? Cite specific examples if you can.

**MOTIONS AND PRETRIAL LITIGATION PRACTICE  
FINAL EXAMINATION, SPRING, 2010**

This is an open book examination which you have two hours to complete. Identify yourself by placing your student identification number on the cover of the blue book. Please read each question carefully and write your responses in the blue books. Be sure to clearly identify to which question you are responding.

**Claim Summary**

In court papers detailing a torrent of threats and vile names that Phoebe Prince was subjected to in the days before she committed suicide, the tormented Irish girl is quoted as saying life at South Hadley High School had become “close to intolerable.” Three teenage girls accused of bullying the 15-year-old girl pleaded not guilty through their lawyers yesterday to civil rights violations and criminal harassment. Ashley Longe, Sharon Chanon Velazquez and Flannery Mullins, all 16, did not appear in court for their arraignments. Three other teens already have been arraigned.

But court papers laying out the cases against those three girls, posted by Fox 25 last night, describe a worsening spiral of bullying that stemmed from Prince’s brief liaison with local football star Sean Mulveyhill, after which he returned to his girlfriend, Kayla Narey.

They and their friends then began what investigators indicate was a pattern of abusive taunts, text messages, Facebook postings, threats, efforts to corner the girl, and at least one assault with a thrown drink can. Prince, whose reactions are described variously as fearful, panicked and distraught, is quoted as telling a friend on Jan. 13, one day before she committed suicide, “school has been close to intolerable lately.” A witness told police Prince told administrators she “was scared and wanted to go home,” but then came back to class saying nothing would be done and “she was still going to get beat up.”

The court papers describe in chilling forensic terms how Prince died and how investigators found her. They were called to her home about 5 p.m. on Jan. 14, where they found the “lifeless body of a white female, hanging in the rear stairwell of the apartment.” A day later, an autopsy found a “a ligature mark about the neck of Ms. Prince,” according those court papers. The medical examiner said Phoebe died from “asphyxia due to hanging and the manner of death was suicide.”

**QUESTIONS**

1. Parents of Phoebe Prince now come to you and ask you to represent them in a civil claim.
  - a. Would you? Why or why not?
  - b. What additional information would you require?
  
2. Assume for this question only, that you have decided to represent the parents of Phoebe Prince.
  - a. Who would you sue?
  - b. What are your theories of liability?

3. Assume for this question only, that South Hadley High School Administrators comes to you and tell you that the school department received a summons and complaint from the parents of Phoebe Prince “a month or so ago” and “ didn’t think much of it.” What would you do?
4. Assume for this question only that you have decided to represent the South Hadley High School Administrators in this matter.
  - a. Would Mass.R.Civ.Proc. Rule 12 be applicable? Why or why not?
  - b. Would you consider a third-party complaint? Why or why not?
  - c. What would you do prior to answering the complaint?
5. Assume for this question only that you are representing the parents of Phoebe Prince and you are about to begin the discovery phase of this action.
  - a. What type of questions would you ask in your interrogatories to the defendant, the South Hadley High School Administrators?
  - b. What type of documents would you seek in your request for production to the defendant, South Hadley High School Administrators?
  - c. Would you consider serving a request for admissions on the defendant, South Hadley High School Administrators? Why or why not?
6. If you are representing the parents of Phoebe Prince and the attorney for South Hadley High School Administrators refuses to provide you with a copy of student personnel files, which you asked for in your document request, what would you do and how would you do it? What rule supports your position?
7. If this case was brought in the Superior Court and your opponent files a discovery motion directly with the court, is this proper? On what rule and/or standing order do you base your answer? How should the motion have been filed?
8. Your client is about to be deposed, how would you prepare?
9. Is summary judgment a consideration if you were representing any of the parties in this action? Why or why not?
10. If you were representing the parents of Phoebe Prince in this action would you consider an attachment, trustee process or an injunction? Why or why not?
11. At the pretrial conference you learn for the first time that your opponent intends to call an expert witness not previously identified. What would you do?
12. Choose either the plaintiff or the defendant in this scenario and provide a brief negotiated settlement versus trial evaluation.

**MOTIONS AND PRETRIAL LITIGATION PRACTICE  
FINAL EXAMINATION, SPRING, 2008**

This is an open book examination which you have two hours to complete. Identify yourself by placing your social security number on the cover of the blue book. Please read each question carefully and write your responses in the blue books. Be sure to clearly identify to which question you are responding.

**Claim Summary**

On December 15, 2005, Bobby Burnout, not able to work because of a work related injury, was a patron at the One Too Many Saloon. He spent approximately two hours at this establishment and consumed a number of alcoholic beverages. He became bored and decided to leave. Bobby arrived at Louis' Lounge a short time later. While at Louis', Bobby continued to wet his whistle. The bartender at Louis' noticed that Bobby appeared intoxicated and refused to serve any more drinks to him. Bobby was quite angry and stormed out. He then arrived at the Bull's Eye Bar and continued drinking until the early morning hours. As he stumbled out of the bar, a vehicle driven by Nancy Nuisance sped by and struck Bobby. He was immediately rushed to the hospital where it was determined that he had sustained a number of injuries.

**QUESTIONS**

1. Bobby Burnout now comes to you and asks you to represent him.
  - a. Would you? Why or why not?
  - b. How would Mass.R.Civ. Proc. Rule 11 influence your decision?
  - c. What additional information would you require?
  
2. Assume for this question only, that you have decided to represent Bobby.
  - a. Who would you sue?
  - b. What are your theories of liability?
  
3. Assume for this question only, that the owner of Louis' Lounge comes to you and tells you that he received a summons and complaint from Bobby Burnout "a month or so ago" and "didn't think much of it." What would you do?
  
4. Assume for this question only that you have decided to represent Louis in this matter.
  - a. Would Mass.R.Civ.Proc. Rule 12 be applicable? Why or why not?
  - b. Would you consider a third-party complaint? Why or why not?
  - c. What would you do prior to answering the complaint?
  
5. Assume for this question only that you are representing Bobby and you are about

to begin the discovery phase of this action.

- a. What type of questions would you ask in your interrogatories to the defendant, Louis' Lounge?
  - b. What type of documents would you seek in your request for production to the defendant, Louis' Lounge?
  - c. Would you consider serving a request for admissions on the defendant, Louis' Lounge? Why or why not?
6. If you are representing Bobby and the attorney for Louis' Lounge refuses to provide you with a copy of his liquor license, which you asked for in your document request, what would you do and how would you do it? What rule supports your position?
  7. If you are representing Bobby and the attorney for Louis' Lounge is seeking all documents relating to your client's hospitalization for drug and alcohol abuse, what would you do and how would you do it? What rule supports your position?
  8. If this case was brought in the Superior Court and your opponent files a discovery motion directly with the court, is this proper? On what rule and/or standing order do you base your answer? How should the motion have been filed?
  9. Your client is about to be deposed, how would you prepare?
  10. At the deposition of your client, your opposing counsel wants the "usual stipulations." What are they?
  11. Is summary judgment a consideration if you were representing any of the parties in this action? Why or why not?
  12. If you were representing the Plaintiff in this action would you consider an attachment, trustee process or an injunction? Why or why not?
  13. At the pretrial conference you learn for the first time that your opponent intends to call an expert witness not previously identified. What would you do?
  14. Choose either the plaintiff or the defendant in this scenario and provide a brief negotiated settlement versus trial evaluation.
  15. Compare what you have learned of civil litigation during this semester to the movie "A Civil Action" or to any other movie or television program which portrays litigation. Is it accurate or not? Cite specific examples if you can.