THESE EXAMINATION QUESTIONS MUST BE RETURNED AT THE END OF THE EXAMINATION.

THE STANDARD EXAMINATION RULES GOVERN THIS EXAMINATION.

TORTS
PROFESSOR MANASTER
3 ESSAY QUESTIONS

PROFESSOR’S INSTRUCTIONS

This is a closed book examination.

The suggested time for each question is one hour, and the questions will be given equal weight in grading.

An additional ¼ hour is also allowed, for a total examination time of 3 ¼ hours.

Your answers should be organized clearly. The use of headings and subheadings for this purpose is encouraged.
QUESTION I
(Suggested time: 1 hour)

Sue Samuels recently brought her car to a local auto service and repair shop, Auto Fixers, Inc. (AFI), for regular service and maintenance. AFI employees changed the oil, lubricated the vehicle, rotated the tires, etc. and checked various aspects of the car’s condition. They discovered that there was a problem with the front brakes, which sooner or later would cause the brakes to not work properly sometimes. The employees did not try to fix the brakes problem, nor did they mention it to Samuels when she picked up the car late one afternoon.

After picking up the car, Samuels drove to a restaurant, Elegance de Food, to meet some friends for dinner. When she arrived at the restaurant, she gave her car to a valet parking attendant who drove it somewhere and parked it. The attendant was employed by Car Parkers, Inc (CPI), a company which provides valet parking for many restaurants in the area. The same attendant later drove the car back to the restaurant for Samuels after her dinner. As he drove, he noticed that at one point the brakes did not work correctly, though a few moments later they worked fine. He did not mention this experience to Samuels when he returned the car to her.

Samuels drove away from the restaurant, soon going 40 miles per hour despite the 25 miles per hour speed limit posted on signs on the street. At an intersection, she collided with and injured Joe Jones, a pedestrian who was crossing the street. Samuels later said she had seen Jones and quickly tried to swerve and stop in time to avoid hitting him, but the brakes on her car did not work normally. After her car hit Jones, it kept going for a short distance until it crashed into a tree by the side of the street, damaging the car.

Please evaluate the strengths and weaknesses of any tort causes of action available to Samuels and Jones, explaining how these claims should be resolved. If you believe it necessary to obtain additional facts, indicate their legal significance.

QUESTION II
(Suggested time: 1 hour)

Two weeks before Halloween, a group of employees at Partie University, a private institution, put up decorations for that holiday around the campus. In a stairway in Henderson Hall, a classroom building, they wrapped a lot of white, thread-like material around the handrails on both sides of the stairs. This material was attached in many places from the handrail to the ceiling, so that it looked like an abundance of scary cobwebs and spider webs. The way the material covered and was attached to the handrails made it almost impossible for someone walking on the stairs to hold onto the rails.

A state statute requires educational institutions to provide “adequate supporting handrails” in all stairways which may be used by students or visitors. Criminal penalties can be imposed for violations of this statute.
George and Bob Gordon are twin brothers and students at Partie University. Many of their classes are on the second floor of Henderson Hall. In the days after the decorations were put in the stairway there, George and Bob went up and down the stairs many times. Two days before Halloween, however, while walking down the Henderson Hall stairs, George tripped on a book which an unknown student had dropped on the stairs. He fell down the stairs, injuring himself. Walking next to George at the time was Bob, who was very upset when he saw his brother fall.

After George fell, he was taken to the emergency room at a nearby city-owned hospital where he was treated for a broken leg. The treatment was not provided correctly, however, and the leg is not going to heal as successfully as it would have otherwise.

Please evaluate the strengths and weaknesses of any tort causes of action available to George and Bob against Partie University, explaining how these claims should be resolved. If you believe it necessary to obtain additional facts, indicate their legal significance.

**QUESTION III**
(Suggested time: 1 hour)

The Mudville Muskrats are a major league baseball team which almost made it to the World Series. If they had won their last playoff game, they would have been in the Series. However, because of serious mistakes made during the game by the Muskrats’ star, rookie catcher, Peter Bosey, they lost the game. All six of the main Muskrats’ pitchers (whose names begin with the letters E, F, G, H, I, and J respectively) were angry at Bosey about his errors, so immediately after the game ended they ran together toward him, each holding a baseball. They then all threw their baseballs very hard at Bosey while yelling insults at him.

Three balls missed him, but three hit him in the chest at the same time. Even though he was still wearing the padded chest protector he always wore during games, the three balls broke some of his bones and damaged some internal organs. He also immediately became emotionally distraught, and he continues to be very upset, continually saying that he is too scared of baseballs to ever play the game again. The chest protector was manufactured by Sports Equipment, Inc.

Please evaluate the strengths and weaknesses of any tort causes of action available to Bosey against pitchers E, F, G, H, I and J, and Sports Equipment, Inc., explaining how these claims should be resolved. If you believe it necessary to obtain additional facts, indicate their legal significance.

**END OF EXAMINATION**