

## FINAL EXAMINATION: CIVIL PROCEDURE, SECTION ONE

Professor Ira Steven Nathenson  
St. Thomas University College of Law  
Wednesday, Nov. 30, 2022—3.0 hours

**Read the instructions carefully. When time expires, all work must cease.**

**Time and length; general instructions.** This examination is thirteen (13) pages long. I am also providing you with a 73-page supplement (not counting cover and two-page table of contents) with relevant sections of the Constitution, statutes, and FRCP. Make sure you have all pages and let the Proctor know right away if you do not. You may not write anything on, or erase anything from, any examination materials after time runs out. You must return all examination materials to the proctor at the end of the examination. Unless instructed otherwise, use the law as it exists today. If authority is split and there is a majority rule, use the majority rule.

**Closed book.** Except for the supplement, the examination is closed book.

**AGN; avoid other personally identifying information.** Indicate your 3-digit AGN number on this exam, the supplement, any bluebooks, scantron sheets, and other materials. Do not put your name or any other personally identifying information on the examination or other materials.

**Please do not contact me.** Do not contact me with any questions about the examination until scores have been released, as that may constitute a breach of exam anonymity. If you have any questions or concerns, please contact Dean Hernandez or whatever other persons that the administration instructs you to contact in case of any problems.

**Time and scoring.** The suggested times below add up to 150 minutes (2.5 hours). However, I will give you three (3.0) hours to complete the exam. Scoring is proportional to the times noted below.

- *Essay questions (three questions, suggested time of ninety minutes):* I suggest you spend approximately (i.e., at least) 90 minutes total on the three essay questions. If you use a computer, write your answer using **Exam4** or other software required by the Registrar. You may not exceed the **2500-word limitation**, which should be more than enough to answer the essay questions. Since Exam4 counts all words towards the limitation, I suggest that you do not include your outline in the exam submission. You would be better advised outlining on paper or outlining on computer and then turning your outline into your essay answer. If you handwrite your essay, you are limited to **two bluebooks**, writing on one side of the page only, skipping lines.
- *Multiple-choice (twenty questions, suggested time of sixty minutes):* Answer the questions using **Remark** or other required software or sheets supplied by the Proctor. Do not enter your multiple-choice answers into a Bluebook or Exam4, because you will waste words and your multiple-choice answers will not get any credit.

### **Additional instructions for essay questions.**

- *Writing.* Proper spelling, grammar, and organization are expected and are part of your score.

- *How to address essays.*
  - Read the call of the questions and materials carefully—twice—before you outline and write. The call of each question will guide you on what to discuss, and whether some issues should not be addressed.
  - Raise, discuss, and decide all issues reasonably raised by the call of the question, whether or not they are dispositive, and whether or not resolution of one issue makes discussion of other issues technically unnecessary. However, do not engage in negative issue-spotting, which is discussing: 1) issues or parties falling outside of the call of the question, or 2) tangential issues that, although technically falling within the call of the question, are nonetheless frivolous.
  - If you believe you have discovered an error, then expressly identify the error in your written answer and resolve it in a reasonable manner.
  - If—and only if—you believe that it is absolutely necessary to assume additional facts, then state what those facts would be and how they would affect your analysis.
  - Note below that the multiple-choice questions are based on the essay and may build upon or change some of the facts from the essay. You should therefore not start the multiple-choice questions until you complete the essay, to avoid the possibility of inadvertently using multiple-choice facts in your essay answer.

#### **Additional instructions for multiple-choice questions.**

- Finish the essay question first, before turning to the multiple-choice questions. First, because the multiple-choice questions are based upon the essay fact pattern. And second, some of the multiple-choice questions require you to add facts or change facts from the essay. The answer to question 20 is B. Facts added or changed in multiple-choice questions may not be used for the essay, but only for that multiple-choice question.
- You must use **Remark** or other required software or sheets provided by the Proctor for your multiple-choice answers. If you enter your multiple-choice using a Bluebook or Exam4, you will not receive credit.
- If more than one multiple-choice answer seems to be correct, then choose the best answer.

#### ***THIS EXAM IS CONFIDENTIAL***

**As a St. Thomas Law student, you are bound by the St. Thomas University College of Law Code of Academic Integrity. In addition, you may not discuss this examination with any classmates who have not yet completed this exam. Any breach will be considered to be a serious violation of the Code of Academic Integrity and will be addressed accordingly.**

## **ESSAY QUESTIONS**

*Suggested total time for three essay questions: 90 minutes.*

In the Fall of 2020, Atticus Dog (citizen of Florida, resident of Miami) and his very, *very* *bestest* friend, Shelly Turtle (citizen of Florida, resident of Orlando), decided to take a road trip to get some lobster rolls. They therefore packed their bags and got into Dog's brand-new 2020 Wolfvo P2 sedan to go to Boston via Georgia, the Carolinas, Virginia, Pennsylvania, and other states. The friends particularly loved driving through the mountains of Pennsylvania; Dog loved it so much that he would put his head out of the driver's-side window to smell the crisp air. For his part, Turtle loved to play with the radio, constantly changing stations to find the best song for the besties to sing to as they drove north.

As Dog drove through mountainous Central Pennsylvania, nearby was an 18-wheel tractor trailer driven by a grizzled veteran of the trucking industry, Luci Rabbit (citizen of California), well-known as "Queen B" by her CB radio name. She had been a trucker for decades and owned her own "rig" (i.e., 18-wheel semi-tractor trailer). The night before, she had overdone it a bit with her favorite beverage (Binky Beer) and had overslept at the "Lonely Truckers" truck stop in Summersville, WV. As a result, she was pushing the pedal to the medal (i.e., speeding a bit) to make up for lost time to deliver a shipment of "timothy hay" (a nutritious meal for animals in the lagomorph family).

As Rabbit quickly but carefully sped up the side of a mountain, she saw all lanes were closed but one, and up ahead was a small Wolfvo sedan going below the posted speed limit, with its idiot driver's head sticking out of the left-side window. As a result, she had to slam on her brakes. Fortunately, a second lane opened up just before she would have hit the Wolfvo, and Rabbit pulled into the right-hand lane to pass. Unfortunately, just as Rabbit was passing the Wolfvo on the right, she headed into a sharp left-hand curve and her truck began to tip over, the right tires at least a foot off the ground.

Rabbit was confident in her driving skills and knew that she could safely regain control of the truck. After a moment, she had the truck almost level again, but at the last second, the Wolfvo repeatedly and loudly blasted its horn, a *hoooooooooowling* sound that startled Rabbit and hurt her sensitive ears. As a result, Rabbit lost control and her truck tipped over, causing heavy damage to the truck and spilling timothy hay all over the highway. The Wolfvo avoided hitting the truck but ended up stuck in a muddy ditch by the side of the road with minimal damage.

After the accident, Rabbit and Dog got out of their vehicles and argued about who was at fault. Dog asked Rabbit to help him pull his car out of the ditch and Rabbit refused to even look at him. Since Dog was stuck in a pile of mud, he took some of the spilled timothy hay to build traction under his wheels so that he could get out. After the police came and took statements, Dog drove off to continue his journey to get some lobster rolls with Turtle. Rabbit, of course, had to wait for a tow truck to come for her rig, which was heavily damaged.

One year and 350 days later, Luci Rabbit filed suit against Atticus Dog in the United States District Court for the Middle District of Pennsylvania for negligence arising from the horn-blasting, seeking \$75,000 for damages to her truck, and \$1 for the timothy hay that Dog used to get his truck out of a ditch. A month later, Dog was personally served with the complaint and summons while having a hamburger with Turtle at Le Tub, a famous burger eatery in Hollywood, Florida. Dog and Turtle read the complaint together and drowned their sorrows in beer, burgers, and Key Lime Pie. Dog soon answered, including a claim against Rabbit for negligence, seeking \$50 for a scratch he got on his car

during the accident.

Six months later, during his deposition, Dog testified that it was Turtle who blasted the horn at Rabbit rather than Dog, and admitted that at the time of the accident, Turtle was operating the steering wheel because Dog was too busy sticking his head out of the drivers-side window. Accordingly, Rabbit obtained leave from the District Court to amend her complaint to change her claim against Dog to a theory of negligent entrustment against Dog (by allowing Turtle to steer and honk the horn), and for the first time joined Shelly Turtle, asserting a claim against him for negligent driving and honking, seeking \$75,000 for damages to her truck. Shortly after that, Dog amended his answer to add a claim against Turtle seeking up to \$75,000 contribution to pay Dog back anything that Dog might owe Rabbit.

Additional instructions—assume for purposes of this examination that:

- Rabbit, Dog, and Turtle are all human beings and competent human adults.
- The fact pattern provides the citizenship of all parties, which you should treat as established for purposes of any essay answer without the need for further analysis of citizenship.
- The statute of limitations for negligence is two years and the statute of limitations for contribution is five years.

**QUESTION ONE (35 minutes):** Write an objective memo, discussing how parties and claims were joined, and whether joinder was proper under the applicable rules of the FRCP. Do not address subject-matter jurisdiction in this essay.

**QUESTION TWO (45 minutes):** Write an objective memo about the amended complaint, discussing whether each claim by each party has proper subject-matter jurisdiction. I recommend that you organize your essay party-by-party, and claim-by-claim, going in order of how the claims were asserted. To the extent that joinder is relevant to your analysis, you may incorporate any relevant joinder conclusions from Question One into this answer without having to repeat any joinder analysis.

**QUESTION THREE (10 minutes):** You are Turtle’s lawyer and need to draft an answer to the following allegation in Rabbit’s amended complaint adding Turtle:

15. Immediately prior to the accident, Defendant Dog allowed Defendant Turtle to take control of the steering wheel of Dog’s 2019 Wolfvo P3 vehicle, and Defendant Turtle did take control of the steering wheel of that vehicle and blasted its horn three times, causing Plaintiff Rabbit to lose control of her tractor trailer.

As Turtle’s lawyer, you have engaged in a careful investigation and have confirmed the information in the essay fact pattern. Regarding paragraph 15, you reasonably believe based on your investigation that Turtle did not seek or obtain permission from Dog before seizing control of the steering wheel of Dog’s vehicle, taking control and beeping twice on his own volition because Dog—who was sitting in the driver’s seat—was not paying attention to his driving. Based on this investigation, draft an answer to paragraph 15 of Rabbit’s amended complaint. Do not provide analysis or explanation; instead, just draft a responsive paragraph to incorporate into Turtle’s answer.

## **MULTIPLE-CHOICE QUESTIONS**

*Suggested total time for twenty (20) multiple-choice questions: 60 minutes.*

Read these rules carefully before proceeding:

- *Finish the essay questions first.* The multiple-choice questions are based on the essay fact pattern, but may add or change some of the facts from the essay. You should therefore not start the multiple-choice questions until you complete the essay questions, in order to avoid the possibility of inadvertently using multiple-choice facts in your essay answers.
- *Each multiple-choice question stands on its own:* Unless expressly provided otherwise, a fact added or changed from the essay for one multiple-choice question applies to that question only and not to any other question.
- *Choose the best answer:* If more than one answer seems to be correct, choose the best answer.
- *References to state law:* Some of the questions make statements about the content of the substantive law of various states. These statements are hypothetical and for purposes of this examination only.
- *Unless a question expressly provides otherwise:*
  - All suits take place in federal court.
  - The relevant long-arm statute states: “A court of this state may exercise personal jurisdiction to the full extent permitted by the Constitution of the United States.”

1. Does the court have personal jurisdiction over Dog and Turtle?
  - A. No, because they are subject to general jurisdiction in Florida, where they are domiciled.
  - B. Yes, even though the court lacks general jurisdiction over them.
  - C. No, because it would be burdensome to force Florida residents to litigate in Pennsylvania.
  - D. Yes, because they impliedly consented to personal jurisdiction by driving and traveling in Pennsylvania, giving rise to the claims against them.
2. In which judicial districts might Rabbit have asserted venue in a lawsuit against Dog and Turtle for negligence?
  - A. Any judicial district in Florida.
  - B. The Middle District of Pennsylvania.
  - C. Any judicial district in Florida and the Middle District of Pennsylvania.
  - D. The Middle and Southern Districts of Florida and the Middle District of Pennsylvania.

3. Assume that Turtle moves to dismiss Rabbit's negligence claim against him due to the statute of limitations having expired before Rabbit added Turtle as a defendant. Should the court grant Turtle's motion?
- A. Yes, because he was not served with process before the statute of limitations expired.
  - B. No, so long as he is served with process within 90 days of the filing of the amended complaint.
  - C. Yes, because he did not learn about the suit against Dog until after the statute of limitations expired.
  - D. No, because he learned about the suit against Dog within a few weeks of its filing.
4. Assume for this question only that Rabbit filed her initial complaint against Dog in state court in Jacksonville, Florida. Could Dog remove the case to federal court?
- A. No, because Dog is a citizen of Florida.
  - B. Yes, but he'd have to remove it to the Northern District of Florida and not the Southern District of Florida.
  - C. No, because he did not blast the horn and is therefore not the real party in interest.
  - D. Yes, because diversity jurisdiction would be satisfied.
5. Assume for this question only that Rabbit, Dog, and Turtle, are all citizens of Florida and the original lawsuit against Dog is filed in the Court of Common Pleas for Dauphin County, PA (a state trial court in Pennsylvania). Three months after Rabbit amends her state-court complaint to add Turtle, a notice of removal is filed by Dog and Turtle, removing the lawsuit to the United States District Court for the Middle District of Pennsylvania. Three months after that, Rabbit moves for remand. Should the federal court remand the case to the Pennsylvania court?
- A. Yes, because the notice of removal was filed more than 30 days after service on the defendants.
  - B. No, because the motion to remand was sought more than 30 days after the notice of removal.
  - C. Yes, because remand is necessary.
  - D. No, because none of the parties are a citizen of Pennsylvania.

6. Assume for this question that Dog's negligence claim against Rabbit in the fact pattern is negligence per se premised on a federal regulation issued by the U.S. Department of Transportation (U.S. D.O.T.) requiring truckers driving in interstate commerce to obey all posted speed limits. Further assume that Dog is the plaintiff rather than the defendant. Would such a claim satisfy federal question jurisdiction?
- A. Yes, because it includes a federal ingredient.
  - B. No, because it was created by state law.
  - C. Yes, because it was created by federal law.
  - D. No, because finding federal question jurisdiction here would permit a huge expansion of cases that can be heard in federal court.
7. Assume for this question that Dog's answer to Rabbit's complaint included the defense of improper service of process. Five days later, Dog unilaterally amended his answer to add the defense of lack of personal jurisdiction. Five days after that, he obtained Rabbit's consent to amend again and added the defenses of failure to state a claim and lack of venue. Which of the defenses have been waived?
- A. Lack of venue.
  - B. Lack of venue and failure to state a claim.
  - C. Lack of venue, failure to state a claim, and lack of personal jurisdiction.
  - D. None of them because Rabbit consented to the second amendment.
8. Assume for this question that paragraphs 12 to 14 of Rabbit's original complaint, alleging that Dog was negligent, state in relevant part:
12. On or about Oct. 15, 2020, Plaintiff Luci Rabbit was driving her truck on the Pennsylvania Turnpike with all reasonable care.
13. Defendant Atticus Dog, who was driving a Wolfvo sedan in the adjacent lane, negligently and without justification blasted his howling horn at Plaintiff, hurting Plaintiff Rabbit's ears, startling her, and causing her to lose control of her truck, making her truck tip over, and causing \$75,000 in damages to the truck.
14. Defendant Dog is liable to Plaintiff Rabbit for negligence in the amount of \$75,000.
- Dog moves to dismiss Rabbit's negligence claim pursuant to Fed. R. Civ. P. 12(b)(6). Should the court grant his motion?

- A. No, because Rabbit's claim presents more than sufficient plausibility, or heft, to proceed to discovery.
  - B. Yes, because Rabbit's claim does not present sufficient plausibility, or heft, to proceed to discovery.
  - C. No, because based on Rabbit's pre-filing investigation, it was possible that Dog blasted the horn.
  - D. Yes, because it was Turtle who blasted the horn, not Dog.
- 9.** Assume that immediately after Dog's deposition (but before Rabbit's lawyer amended the complaint), Dog's lawyer moved for monetary sanctions under Rule 11, arguing that a reasonable investigation would have showed that Dog neither held the steering wheel nor beeped his horn at the time of the alleged accident. For her part, Rabbit's lawyer did investigate the matter before filing, which included interviewing Rabbit (who testified she saw Dog's head sticking out of the driver's side window of the vehicle shortly before and after the accident), as well as by reviewing dashboard cam footage taken from Rabbit's truck, which corroborated Rabbit's statement to her lawyer. Should the court grant Dog's Rule 11 motion?
- A. Yes, because Rabbit sued the wrong person for the wrong action.
  - B. No, because the court may not award monetary sanctions against a represented party.
  - C. Yes, because the lawyer should have investigated further.
  - D. No, because Dog did not follow the rules.
- 10.** Assume for this question that before filing suit, Rabbit filed a claim with her insurance company for the damages to her truck. An insurance investigator prepared a report on the accident to keep on file in case either Rabbit or the insurance company had to assert or defend a liability claim in court. The insurance report stated that a court would likely find Rabbit contributorily negligent for her conduct leading up to the accident. Is the insurance report discoverable?
- A. No, because the report is work product.
  - B. Yes, because Rabbit must disclose information relevant to any claim or defense.
  - C. No, because the report includes legal advice and is protected by the attorney-client privilege.
  - D. Yes, because the report is not by an attorney and is not protected by the attorney-client privilege.



- 11.** Assume that during discovery, Dog notices Rabbit, demanding that she submit to a hearing test to determine how sensitive her hearing is. Is Dog's demand for a hearing examination appropriate?
- A. Yes, because Rabbit put her hearing at issue in her complaint and a hearing test is highly likely to provide relevant information on Rabbit's sensitivity to loud noises.
  - B. No, because medical examinations are not permitted on demand.
  - C. Yes, because Rabbit is a party.
  - D. No, so long as Rabbit moves before the court to strike Dog's demand for a hearing test.
- 12.** Building on the additional facts of the previous question, further assume that Pennsylvania law does not permit parties to request medical examinations of any type of any parties for purposes of discovery without consent, in order to protect the privacy of litigants. Rabbit denies consent, and in a motion to restrict discovery, argues that Pennsylvania law prohibits Dog's demand for a hearing test. Should the court grant Rabbit's motion?
- A. Yes, because Pennsylvania law governs the parties' tort claims.
  - B. No, because federal law governs the parties' tort claims.
  - C. Yes, because Rabbit's privacy is a substantive right.
  - D. No, because discovery is governed by federal and not state rules.
- 13.** Assume that during discovery, Dog sends requests to the owner of the Lonely Truckers truck stop in West Virginia seeking answers to interrogatories and requests for admission regarding Rabbit's conduct and statements the night before the accident. He also demands any written or electronic records documenting Rabbit's stay at the truck stop. Are the discovery requests appropriate?
- A. Yes, because they are likely to lead to information relevant to the parties' claims or defenses, particularly regarding how rested Rabbit was when she was driving the next day.
  - B. No, because discovery cannot be sought on non-parties.
  - C. Yes, but only for the documentary evidence, not for the interrogatories or requests for admissions, no matter how relevant they may be.
  - D. No, because the truck stop is located in West Virginia and the federal court is in Pennsylvania.

14. Assume that Dog moves for summary judgment on Rabbit's amended claim against him. He bases his motion on his discovery testimony that it was not Dog but rather Turtle who was beeping and steering at the time of the accident. He also points out or suggests to the court that even though Rabbit had multiple opportunities to seek discovery from Dog and Turtle, Rabbit still has no evidence that Dog was the one beeping and steering. Rabbit files no materials in opposition. Should the court grant Dog's motion for summary judgment?
- A. Yes, because Rabbit defaulted on the motion by failing to object or otherwise defend.
  - B. No, because Dog's deposition testimony is self-serving and should not be credited.
  - C. Yes, because Dog has negated an essential element of Rabbit's claim and Rabbit failed to meet her shifted burden of showing there is a disputed issue of material fact.
  - D. No, because Dog has not shown that there is no genuine dispute as to any material fact and that he is entitled to judgment as a matter of law.
15. Assume that all parties move for summary judgment on all claims. The district judge grants summary judgment only on Rabbit's claim for \$1 for the timothy hay that Dog used to get his car out of a ditch, granting summary judgment to Dog and dismissing Rabbit's \$1 claim for timothy hay. The judge then schedules a jury trial date for the remaining claims. Can Rabbit immediately appeal the dismissal of her \$1 claim?
- A. Yes, if the district judge certifies the appeal under 28 USC 1292(b).
  - B. Yes, if the district judge certifies the appeal under FRCP 54(b).
  - C. Yes, by writ of mandamus.
  - D. Yes, under the collateral order doctrine.

16. Assume that during trial, Rabbit testifies that she “always drives within the posted speed limit and usually five miles below.” In front of the jury, Dog’s lawyer then calls as a witness, Maxie, a truck driver who knows Rabbit and, as the lawyer says, “is prepared to testify that Rabbit *always* drives faster than the posted speed limit, showing plaintiff to be a big-eared liar.” Rabbit’s lawyer objects to Maxie’s testimony because Dog had not initially disclosed his intent to use Maxie as a witness in support of Dog’s case. What should the court do?
- A. Permit Maxie to testify that Rabbit is a liar.
  - B. Prohibit Maxie’s testimony and inform the jury that Dog had failed to meet his obligation to disclose a potential witness to Rabbit.
  - C. Permit Maxie to testify on any matter relevant to the case for which he has personal knowledge.
  - D. Order a mistrial because the jury has been tainted by Dog’s lawyer’s statement about Maxie.
17. Assume that at trial, Rabbit’s lawyer presents her case in chief, putting forth her witnesses and evidence. After finishing her case in chief, Rabbit’s lawyer moved for judgment as matter of law, arguing that any reasonable lawyer must find in Rabbit’s favor based on her evidence. The motion was denied. Later in the trial when Dog and Turtle were putting on their case in chief, they called a witness, another truck driver who was driving a mile behind them and who testified that shortly before the accident, he heard somebody on the CB radio complaining that “Queen B is puttin’ an extra 40 pedals to the metal!,” which he explained meant that somebody was claiming that Rabbit was speeding, going at least 40 miles over the speed limit. Rabbit’s lawyer objected to the testimony at the time as hearsay, but the objection was overruled. After all the lawyers rested their case, the case was submitted to the jury, and the jurors found in favor of Rabbit on all claims, giving her \$1. The next day, Rabbit moved for renewed judgment as a matter of law on the basis of improperly admitted evidence, namely the hearsay testimony of the truck driver, as well as a new trial, based on shockingly low damages. Assuming that the district judge agrees that the hearsay evidence was improperly admitted and prejudicial, and that the damages were shockingly low, what should the court do?
- A. Grant the motion for renewed judgment as a matter of law and conditionally grant the motion for a new trial.
  - B. Deny the motion for renewed judgment as a matter of law and grant the motion for a new trial.
  - C. Deny both motions because no motions were made by Rabbit’s lawyer at the end of all of her opponent’s evidence.
  - D. Inform the defendants’ lawyers that the court will grant a new trial on the issue of damages unless they agree that the damages awarded to Rabbit for negligence be increased to \$75,000.

18. Assume that shortly after the 2020 accident, Rabbit sued Dog, and that her only theory of liability was negligent beeping. Dog did not assert any counterclaims, instead defending on the basis of contributory negligence (regarding contributory negligence, assume that under the applicable law, if a plaintiff is found to be even partially negligent, they cannot recover any damages for the negligence of an opposing party). In this scenario, assume that the jury found Dog negligent and Rabbit contributorily negligent, and the judge therefore entered a verdict in Dog's favor. A month later (but still within the statute of limitations), Rabbit filed a second suit in the same federal court against Dog for negligent entrustment by allowing Turtle to drive and beep. Dog moves to dismiss the second suit on the basis of preclusion. Should the court grant his motion?
- A. Yes, because claim preclusion prevents Rabbit from suing the same party or privy again for the same claim.
  - B. No, because the second claim is for negligent entrustment, which is a different legal theory, involving different facts.
  - C. Yes, because issue preclusion can be asserted defensively and non-mutually against Rabbit, because she was a party or privy to the first suit.
  - D. No, because the finding of contributory negligence was not essential to the outcome of the first suit.
19. Assume the facts of the previous multiple-choice question with two changes: that in her second suit, Rabbit sues Turtle for negligent beeping, rather than Dog for negligent entrustment. Turtle moves to dismiss the second suit on the basis of preclusion, namely, that the issue of Rabbit's contributory negligence was already litigated and decided, and on that basis, Rabbit cannot win the second suit against Turtle. Should the court grant his motion?
- A. Yes, because claim preclusion prevents Rabbit from suing the same party or privy again for the same claim.
  - B. No, because the second claim is asserted against a different defendant.
  - C. Yes, because issue preclusion can be asserted defensively and non-mutually against Rabbit, because she was a party or privy to the first suit.
  - D. No, because the finding of contributory negligence was not essential to the outcome of the first suit.

20. In the real world, Atticus Dog is Professor Nathenson's beloved shepherd mix. What is the most likely to entice Atticus to come inside when he is outside barking at birds and cats? (You already have all the information you need to answer this question. *Do not ask the proctor for clarification.*)

- A. Publix Bacon treats.
- B. True Chews.
- C. A snakey toy that squeaks.
- D. Whatever Mom and Dad are eating.

**[END OF EXAMINATION]**

The Nathenson Family "Not Ready for Exam Time Players" would like to wish you a happy, healthy, and safe holiday break!

**Atticus Dog**



"Never underguesstimate da power of da treetts."

**Luci Rabbit**



"Dawg is a Toopid Woof."

**Shelly Turtle**



"BlaHHh!"