



Success in law school = success on law school exams

For the vast majority of your law school classes, 100% of your class grade will be based on how well you perform on the final exam. *So, you need to focus on the final exam from the beginning.*

Introduction to Law School Exams

- In general, one exam per class determines your entire grade for that course.
- Law school exams test the ability to think critically and apply the law to fact patterns.
- Law school exams are graded on a strict curve. Only a small percentage of first-year students get As.



Sample Torts Question¹

Dan, a dog breeder, had some eight-week-old puppies to sell. Bob and Carol went to his house to look at them. Dan invited them into the living room where the puppies were located and said, whatever you do, don't go into the room at the end of the hall." As they were examining the puppies, the largest puppy, without warning, gave Carol a nasty bite on her hand. Dan told Bob to go to the bathroom near the end of the hall to retrieve some bandages.

Forgetting Dan's earlier admonition, Bob opened the door at the end of the hall, thinking it was the bathroom, and entered a darkened room where Dan kept an enormous pet chimpanzee. The chimpanzee jumped between Bob and the door, beat its chest and made menacing hoots. Frightened, Bob stood still.

In attending to Carol's bite, Dan mistakenly grabbed a bottle of heavy-duty solvent, thinking it was a bottle of antiseptic. When Dan rubbed its contents into Carol's wound, she began to scream and shout in pain. Hearing Carol's cries, Bob barged past the chimpanzee, which gave him a deep gash to his head as he passed. Shaken and sore from their injuries, Bob and Carol fled Dan's house.

1. What claims may Carol reasonably raise against Dan, what arguments may Dan reasonably make, and what is the likely outcome? Discuss.
2. What claims may Bob reasonably raise against Dan, what arguments may Dan reasonably make, and what is the likely outcome? Discuss.

¹ Source: The State Bar of California,

http://www.calbar.ca.gov/Portals/0/documents/admissions/Examinations/February2019CBX_Questions.pdf



Answering Essay Exams Using the IRAC Method

The IRAC method is a commonly used method for writing law school exam answers. The letters in **IRAC** stand for the following words:

- I = issue
- R = rule
- A = analysis
- C = conclusion

The IRAC method is formulaic. To use IRAC one essentially fills in the blanks of the following formula for each issue that one spots: “The issue is _____. The rule is _____. A court would analyze it as follows: [apply the law to the facts]. In conclusion, _____ will likely win.”

I = issue

Issue-spotting is important because if you don't spot the issue, you will not be able to apply the relevant law and analyze it (and this is what you get the most points for!). To become a good issue-spotter, pay close attention to the facts in the fact pattern, as discussed below. Also, practice answering past exam questions and comparing them to model answers (if you can find them). This will help you get an idea of the commonly tested issues and will help you spot these issues on your final exam.

R = rule

For each issue that you identify, state the rule of law that governs the issue. The best way to get good at identifying the rules is to have good law school outlines and memorize them (see more below)!

A = analysis

The analysis is the most important part of your exam answer. It is the section where you apply the law to the facts. The key difference between writing an average IRAC answer and



an outstanding A+ answer is to develop the *analysis* by making *lawyerly arguments on behalf of the plaintiff and on behalf of the defendant for each issue that you spot*. When you get to the “A” in IRAC, ask yourself: “What would the plaintiff argue?” then ask yourself, “What would the defendant argue?” State who has the better argument. Make creative arguments, and make all of the reasonable arguments you can. This is the most important part of your essay.

When you make arguments (and when you respond) for each side, refer to specific facts in the fact pattern. You may argue the facts should be interpreted one way or the other, the law should be interpreted one way or the other, or that the traditional rule should be applied instead of the model rule (or vice versa). You may also cite policy rationale or specific cases.

Most of your arguments will be based on classroom discussion. That is, if your professor really emphasized contradicting rulings of two different cases, you would mention that in your argument section. If your professor focused instead on common law rulings vs. statutory law, you may make arguments based on that.

This takes your answer out of the simple IRAC format because you are not just applying the law to the facts, instead you are arguing and analyzing from both the plaintiff’s and the defendant’s perspectives in a lawyerly manner.

C = conclusion

Last, state which party is more likely to win and explain your reasoning. The conclusion answers the question, “Who has the better legal argument?” The conclusion that you arrive at is not as important as the analysis that you provide for the bigger issues presented.



Issue-Spotting This Torts Question

Dan, a dog breeder, had some eight-week-old puppies to sell. Bob and Carol went to his house to look at them. Dan invited them into the living room where the puppies were located and said, "whatever you do, don't go into the room at the end of the hall." As they were examining the puppies, the largest puppy, without warning, gave Carol a nasty bite on her hand. Dan told Bob to go to the bathroom near the end of the hall to retrieve some bandages.

Forgetting Dan's earlier admonition, Bob opened the door at the end of the hall, thinking it was the bathroom, and entered a darkened room where Dan kept an enormous pet chimpanzee. The chimpanzee jumped between Bob and the door, beat its chest and made menacing hoots. Frightened, Bob stood still.

In attending to Carol's bite, Dan mistakenly grabbed a bottle of heavy-duty solvent, thinking it was a bottle of antiseptic. When Dan rubbed its contents into Carol's wound, she began to scream and shout in pain. Hearing Carol's cries, Bob barged past the chimpanzee, which gave him a deep gash to his head as he passed. Shaken and sore from their injuries, Bob and Carol fled Dan's house.

1. What claims may Carol reasonably raise against Dan, what arguments may Dan reasonably make, and what is the likely outcome? Discuss.
2. What claims may Bob reasonably raise against Dan, what arguments may Dan reasonably make, and what is the likely outcome? Discuss.

As you will notice, certain facts may be needed to set up the problem (such as the beginning few sentences) so will not, in and of themselves, raise specific issues.

Preliminary issues raised by the fact pattern

Carol:

Issue: negligence for dog bite

sub-issue: premises liability

sub-issue: domestic animals

Issue: negligence for solvent injury

sub-issue: duty to rescue/duty owed by rescuer



Issues: assumption of risk, comparative negligence, contributory negligence

Dan:

Issue: strict liability for chimpanzee

Issue: negligence for chimpanzee

Issues: assumption of risk, comparative negligence, contributory negligence

At this point, you can start outlining an answer to the question by making a list of these issues in your exam answer!

Issue takeaway: most facts are in a fact pattern for a reason, and they will raise (or neglect to raise) specific issues. So, a good way to get good at issue-spotting is to go through the fact pattern sentence by sentence and ask *why* the fact is there.

Next Step: Identify the Applicable Rules

Work on memorizing the rules so that you are able to recite them on an exam.

1. Make your own outlines

We say this repeatedly because it is so important to make your own outlines! It is much easier to understand and memorize something you have organized yourself!

If you really don't have time to make your own from scratch, here is what you should do:

- Find a student who took the *same class with the same professor as you* and see if you can use their outline. (Your school may have an outline bank, or you may be able to find an outline from a friend or online.)
- Do not use a commercial outline as your sole source of material—you need to focus on what was covered in class.
- Personalize the outline as much as you can—make charts, color-code them, etc.



2. Actively review your outlines

Many students try to learn their law school outlines by reading them multiple times; however, it is much better to *actively* review your outlines. This allows you to concentrate on the material, understand it, and remember it.

How do you actively review your outlines?

- Color-code them
- Draw diagrams and pictures
- Invent mnemonics
- Repeat information out loud
- Explain it to a friend
- Quiz yourself and quiz others
- Cover up a part of the outline, write down whatever you know about that topic, look back at your outline, see what you are missing, then do this again until you know everything! Then move on to the next section!

We don't recommend that you rewrite all your outlines very neatly—that tends to take a lot of time and be mindless! We also don't recommend making flashcards for all your outlines. Flashcards are good for certain portions of the exam but making flashcards for *every* part of every subject is too time-consuming! See this post on [how to use law school flashcards](#) the right way, if you like flashcards.

3. Go through one section at a time, then move on

If you have a 50-page outline, go through the first five or 10 pages over and over again until you know them. Instead of reading them, *actively* review them, as noted above. Only then should you move on to the next five or 10 pages. If you try to learn all 50 pages at once, you will feel anxious and overwhelmed.

During your study period before final exams, focus on one or two classes a day. There is no reason to focus on all four classes every day. That will be overwhelming and you won't get enough done!

4. Take breaks

Memorizing is hard work. You cannot memorize outlines all day. Instead, incorporate frequent breaks into your studying. You can also give yourself a break by doing different tasks throughout the day (i.e., instead of saying, "I'm going to memorize outlines all day," incorporate other tasks like practicing exams or reading supplements).



5. Make sure you understand the material as you are actively reviewing it

If you understand how or why something works, you will memorize it better. If you have trouble with a concept, Google it, ask someone who may know the answer, or get a [private tutor](#) if you find yourself really struggling. Understanding the rationale for a rule or being able to come up with real-life examples of how a rule works can aid in memorization.

6. Focus on what matters

You cannot learn everything about every law for every class perfectly. Focus on the portions of the law that your professor emphasized in class or seemed to care about the most. Focus on what your professor has tested in the past. Be smart about how you spend your study time.

Do not focus on memorizing case names or the facts of cases. Besides a few major cases, your professor will probably not expect you to have a detailed knowledge of the cases themselves. It is the principles the cases illustrate that is more important!

7. Keep coming back to your outlines

It is not enough to look at something once, memorize it, and then put it away for a few weeks. (So much of your hard work will be wasted!) Instead, keep reviewing your law school outlines. Try to review each one at least once a week. That way, you can use your study period to *review* your outlines for a final time and take practice exams (rather than relearning everything again!).

Preliminary rules raised by the fact pattern:

Issue: Negligence (dog bite)

Rule: In order to make out a prima facie case of negligence, the plaintiff must establish (1) duty, (2) breach, (3) actual cause, (4) proximate cause, and (5) harm.

Sub-issue: Duty

Rule: An individual generally owes a duty to others to act as a reasonably prudent person would under similar circumstances. The majority view (Cardozo) is that a duty is owed only to foreseeable plaintiffs in the zone of danger, while the minority approach (Andrews) is that a duty is owed to everyone, including unforeseeable plaintiffs. In determining what is



reasonable, the court will generally look at physical characteristics, age, expertise, and whether the situation is an emergency.

A specific duty is owed by owners or occupiers of land, depending on the status of the plaintiff. If the plaintiff is an invitee (one that is on the premises for a commercial purpose), the premises possessor must warn of or make safe all dangers that he knows or should know of.

Sub-issue: Breach

Rules: The plaintiff must show that the defendant breached his duty of care.

Sub-issue: Actual cause

Rule: There must be a factual connection between the breach and the injury suffered. To determine actual cause, ask, "But for the defendant's actions, would the injury have occurred anyway?"

Sub-issue: Proximate cause

Rule: The harm must be a foreseeable result of the breach.

Sub-issue: Damages

Rule: The plaintiff must suffer actual harm to successfully sue in a negligence action.



Show Off Your Arguing Skills! Analysis and Conclusion

Answer using simple "IRAC":

I → R → A → C

Sophisticated answer using the strategy we recommend: (making as many arguments on behalf of both parties as possible):

I → R → A {

IRAC

IRAC

IRAC

A sophisticated answer *uses* the IRAC method yet *transcends* it at the same time. Such an answer comes in all kinds of formats. It is not limited to the format above. For example, another model is as follows:

I → R → A {

IRAC

IRA (IRAC) C

} → C

Carol v. Dan

Issue: Negligence

Sub-issue: Duty

Rule: An individual generally owes a duty to others to act as a reasonably prudent person would under similar circumstances. The majority view (Cardozo) is that a duty is owed only to foreseeable plaintiffs in the zone of danger, while the minority approach (Andrews) is



that a duty is owed to everyone, including unforeseeable plaintiffs. In determining what is reasonable, the court will generally look at physical characteristics, age, expertise, and whether the situation is an emergency.

A specific duty is owed by owners or occupiers of land, depending on the status of the plaintiff. If the plaintiff is an invitee (one that is on the premises for a commercial purpose), the premises possessor must warn of or make safe all dangers that he knows or should know of.

Analysis:

Under either the Cardozo or Andrews approach, Carol is a foreseeable plaintiff because she was in Dan's living room at the time of the accident. Individuals on one's premises could foreseeably be injured. Therefore, Dan owes Carol a duty.

Carol will argue that she and Bob were on the property to confer a commercial benefit (buy a puppy), and so she will assert that they are invitees. Dan on the other hand may argue that they just had permission to come onto his property, and it was unclear whether they would actually buy a puppy (they did not), so he may argue that they are licensees. In this case, Carol probably has the stronger argument. Therefore, because they are invitees, Dan must warn or make safe all dangers that he knew of or should have known about.

Carol will argue that Dan should have known that the puppy could produce a nasty bite. Puppies have sharp teeth and it is not uncommon for puppies to bite. Carol will thus argue that Dan had a duty to warn her of the likelihood of receiving a bite. Dan, on the other hand, will point out that the puppy bit Carol "without warning," and therefore he had no reason to know if the puppy would bite. It is not clear from these facts whether Dan knew or should have known that the puppy would bite. If he had reason to know, then he had a duty to either warn Carol or make the situation safe.

Conclusion: If Dan had reason to know that the puppy could give Carol a nasty bite, then Dan had a duty to warn Carol of the puppy's propensity to bite or make the situation safe.

Sub-issue: Breach

Rules: The plaintiff must show that the defendant breached his duty of care.



Analysis: Assuming that Dan knew that the puppy had a propensity to bite, Carol will argue that he breached his duty. Carol will point out that Dan did not warn her or take any protective measures (e.g., give her a pair of gloves) to protect against a dog bite.

Conclusion: Assuming that Dan knew the dog might bite, Dan likely breached his duty by not warning Carol or taking any protective measures to prevent a dog bite.

Sub-issue: Actual cause

Rule: There must be a factual connection between the breach and the injury suffered. To determine actual cause, ask, "But for the defendant's actions, would the injury have occurred anyway?"

Analysis: Had Dan either warned Carol of the puppy's propensity to bite, or taken protective measures, such as providing Carol with gloves, or otherwise restraining the puppy, the injury most likely would not have occurred.

Conclusion: Therefore, Dan's breach is a proximate cause of Carol's injuries.

Sub-issue: Proximate cause

Rule: The harm must be a foreseeable result of the breach.

Analysis: A bite is the foreseeable result of the failure to restrain a dangerous puppy.

Conclusion: Therefore, Dan's failure to warn restrain is the proximate cause of Carol's injury.

Sub-issue: Damages

Rule: The plaintiff must suffer actual harm to successfully sue in a negligence action.

Analysis: Carol received a "nasty bite on her hand" which constitutes damage.

Conclusion: Therefore, Carol sustained actual harm.



How to Use Model Answers

Model answers or sample answers are invaluable resources that tell you whether you are on track and help you to improve. Pay close attention to them. Analyze your answer next to the model answer. This is how you get better at answering questions. If you are not sure how to do this at first, start by asking these questions when comparing your answer to the model answer.

Questions to ask when comparing your answer to the model answer

Issue

- Did I spot the same issues that the writer of the model answer spotted?
- Did I miss important issues? Which ones? How will I avoid this in the future?
- Did I include issues that the model answer did not include? If so, are these issues relevant?

Rule

- Did I clearly lay out all the rules and elements of law for each issue?
- Did I discuss laws that weren't relevant? How can I avoid this in the future?

Analysis

- Did I make arguments on behalf of each party (where applicable)?
- Did I analyze the problem as in-depth as the model answer did?
- Did I spend too much time analyzing an issue that should obviously turn out in one party's favor?
- Did I know enough law to fully analyze the question or do I need to review my outline more?

Conclusion

- Was my conclusion too vague? Was it too strongly worded?
- Was my conclusion correct (or at least arguably correct)?

Other

- Did I spend too much time restating facts or conclusions?
- Did I answer the exam in the appropriate amount of time?
- What are my strengths?
- How can I capitalize on my strengths and make them even better?
- What do I need to practice more?



Last Minute Tips for Essay Exams

Thoroughly analyze the issues . . . but not the obvious ones.

Do not write pages and pages on issues that should *obviously* turn out one way. Mention it but spend most of your time focusing on the **important** issues instead. If you spend too much time on the obvious issues, you will never get around to providing an adequate analysis on the important issues.

State the relevant rules of law . . . but don't state every rule of law that you know.

It is true that you want to state all the *applicable* rules of law but there is a fine line between writing every rule of law you know and writing and analyzing the applicable rules of law. A much better approach than writing every rule of law that you know would be to focus primarily on those rules that are *most* relevant to the facts. The former makes you look unfocused and may result in the professor having less confidence in your answer. The latter makes you look like a good lawyer that can zero in on the important issues.

Use facts to support your arguments . . . but don't restate or summarize all the facts at the beginning of your essay.

It is true that you want to state specific facts when you are making arguments using the law or the facts. But summarizing a fact pattern that the grader is very familiar with (after all, he or she *wrote* it) will make them glaze over your answer and feel bored. A better answer would begin by simply diving into the important issues. Note that you will probably not lose points for needlessly restating the facts, but you will waste valuable time!

Use facts to support your arguments . . . but don't make up new facts and then discuss the facts you made up.

While it is true that you want to make *arguments* using facts (and how they could be interpreted), you do not want to completely *change* the facts. Indeed, if you do so you're answering your own question—not the professor's question. A better answer might try to speculate on unknown facts.

Many students—even the best students—tend to do some of these things as a way of coping with anxiety or stress. If they are nervous or if they are unsure what the answer is (which is a good sign since it means they are spotting the important issues!) they will resort to, for example, only discussing obvious issues, changing the facts, or restating the facts.



Instead of falling into these time-consuming traps, focus on zeroing in on the important issues, applying the relevant law to the important facts and arriving at the conclusion that makes the most sense. Remember that many times there is no right answer. If you really don't know the answer, you are probably on the right track.



What if Your Professor Includes Multiple-Choice Questions?

If your professor includes multiple-choice questions on your exam, it makes sense to get as much practice answering multiple-choice questions as you can before your exam. Do a Google search for questions or, if you have time, order books online with multiple-choice questions. Many bar exam review books will have multiple-choice questions that cover the material in first-year law school courses. JD Advising's Law School Study Aids have 1,125 multiple-choice questions and counting! [Try out a 7-day free trial here.](#) It is amazing how much you can increase your score through practice.

Make sure when you begin to practice answering multiple-choice questions that you go through the questions slowly and methodically. Dissect each question. After you read the question, ask yourself what legal issue is being tested and what legal rule you need to know to answer the question. If you do not know the legal rule, look it up in your outline. Lastly, go through the answer choices and explain why one is correct and why the others are incorrect. If you complete all the questions slowly and methodically when you practice, you will learn the legal rules better and you will also internalize the best way to approach questions on your exam. You will not fall for tricks!

Closer to your final exam, work on speed. Practice answering several questions each day and make sure you are able to answer them in the time allotted.

Short answer

If your professor includes short answer questions on his or her exam, get your hands on as many short answer questions as possible. If your professor releases any past exams, focus on these first! Also, consult a supplement. Many supplements (such as [Examples & Explanations](#) guides) include plenty of short answer questions. JD Advising's Law School Study Aids have over 800 practice essay questions and counting. [Try out a free 7-day trial here.](#)

Combination

If your professor has a combination of questions (e.g., some multiple-choice, some essay) spend your time answering both kinds of questions when you practice. Allocate your time based on how your final exam score is calculated. If, say, only 10% of the exam is based on your multiple-choice score, and 90% is based on your essay score, focus primarily on practicing essay questions.



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8 Essential Tips for First Time Bar Exam Takers: 03/24/2022, 2 p.m. ET

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Answer to Remaining Issues

Carol v. Dan:

Issue: Negligence for solvent injury

Sub-issue: Duty

Rule: See above for general duty rules. Generally, there is no duty to act affirmatively (e.g., rescue another). However, there may be an affirmative duty to act in certain situations, such as where the defendant caused the plaintiff's peril. Rescuers must act with ordinary care in conducting their rescue.

Analysis: In this case, Carol will argue that Dan caused her injuries (the dog bite) by not providing a warning or protection. Assuming that Dan did have a duty to warn Carol about the puppy's propensity to bite (or take some preventative measures), then Dan also had a duty to reasonably provide rescue assistance for Carol's injuries.

Conclusion: By failing to take steps to protect against the puppy biting, Dan placed Carol in peril, triggering an affirmative duty to provide medical assistance to Carol following the bite on her hand.

Sub-issue: Breach

Rule: See above.

Analysis: In this case, Dan grabbed a bottle of heavy-duty solvent rather than a bottle of antiseptic. It is not clear from the facts whether the bottles looked similar, and thus whether it was reasonable for Dan to grab the solvent instead of the antiseptic. Whether the bottles were similarly shaped, had similar labels, were clearly marked, etc. would indicate whether Dan acted reasonably.

Conclusion: It is not clear whether Dan acted reasonably; if the bottles looked similar, it might have been a reasonable mistake and Dan did not breach his duty. On the other hand, if the bottles are distinctly different, Dan might have breached the duty he owed to Carol.

Sub-issue: Actual cause



Rule: See above.

Analysis: If it was unreasonable for Dan to grab the wrong bottle, then his mistake of grabbing the solvent instead of the antiseptic was the actual cause of Carol's additional pain (but for Dan's mistake, Carol would not have suffered additional pain).

Conclusion: If Dan breached his duty, then the breach was the actual cause of Carol's injuries.

Sub-issue: Proximate cause

Rule: See above.

Analysis: In this case, it is foreseeable that failing to inspect the bottle and using heavy-duty solvent instead of antiseptic could cause injury.

Conclusion: Dan's breach was the proximate cause of Carol's injuries.

Sub-issue: Harm

Rule: See above.

Analysis: In this case, Dan's use of heavy-duty solvent instead of antiseptic caused additional pain for Carol (she screamed and shouted in pain).

Conclusion: Carol's injuries from the heavy-duty solvent satisfy the harm requirement for negligence.

Overall conclusion: If it was unreasonable for Dan to grab the heavy-duty solvent instead of the antiseptic, then Carol will be successful against Dan for negligence arising out of the solvent injury.

Issue: Assumption of risk

Rule: A plaintiff may be denied recovery if he "assumed the risk" of the defendant's negligence. The defendant has to show that the plaintiff both knew of the risk and voluntarily assumed it.



Analysis: In this case, Carol will argue that she did not assume the risk that the puppy would give her a “nasty bite” because she did not know that there was a risk without some sort of warning. Dan, on the other hand, will argue that she assumed the risk simply by visiting the puppies. However, there is no evidence to suggest that Carol did anything to provoke the puppy, or even go near the puppy (e.g., the facts do not state that she was putting her hands near the puppy), so Carol likely has the better argument.

With regard to the solvent, Dan will argue that Carol assumed the risk of an injury by allowing Dan to treat her wounds. However, Carol can argue that she did not know he would use heavy-duty solvent (and had no reason to believe he would do so), and so she did not assume the risk. Again, Carol likely has the stronger argument because she could not have known that Dan would use solvent instead of antiseptic.

Conclusion: Dan’s argument that Carol assumed the risk of her injuries will fail.

Issue: Comparative negligence

Rule: In a comparative negligence jurisdiction (majority), the judge or jury weighs the plaintiff’s negligence against the defendant’s negligence. Percentages of fault are assigned to all of the parties involved. In a pure comparative negligence jurisdiction, the plaintiff can recover no matter how negligent he is. In a partial comparative negligence jurisdiction, if the plaintiff is more at fault than the defendant, the plaintiff cannot recover.

Analysis: In this case, there is no evidence that Carol acted negligently. Thus, Dan’s liability will not be reduced by any percentage of fault attributable to Carol.

Conclusion: Dan’s argument that Carol was comparatively negligent will fail.

Issue: Contributory negligence

Rule: In a contributory negligence jurisdiction (minority), if the plaintiff was negligent in causing his own injury, then the plaintiff is completely barred from recovering unless the defendant had the last clear chance to avoid the injury.

Analysis: As discussed above, there is no evidence that Carol acted negligently or contributed to her injuries in any way.

Conclusion: Therefore, Dan’s argument that Carol was contributorily negligent will fail.



Bob v. Dan:

Issue: Strict liability for chimpanzee

Rule: A defendant is strictly liable for injuries caused by wild animals if such injuries are the foreseeable result of having a wild animal.

Analysis: In this case, Bob was initially scared when he saw the chimpanzee and stood still, and then was struck in the head by the chimpanzee when he barged past it. A chimpanzee is considered a wild (rather than domestic) animal and an attack by a wild animal is the foreseeable result of having a wild animal. Furthermore, being scared is a foreseeable result of a wild animal. However, the facts do not indicate that Bob sustained any type of injury as a result of having been frightened; rather, he simply stood still.

With regard to the deep gash, Bob will argue that this was a result of the wild animal being wild. Dan may try to argue that Bob left the room in a hurry, and that anything might have caused the gash to his head. However, Dan's argument on this point will likely fail as this is exactly the type of injury that is the foreseeable result of a wild animal.

Conclusion: Therefore, Bob will likely succeed in his strict liability claim against Dan for the injuries he received from the chimpanzee.

Issue: Negligence for chimpanzee

Sub-issue: Duty

Rule: See above.

Analysis: Like Carol, Bob is likely an invitee because he was in Dan's house to confer a commercial benefit (potentially to purchase a puppy). As such, Dan owes Bob the highest duty of care: To warn or make safe all dangers that Dan knows of or should know of. Dan seems to know of the danger posed by the chimpanzee because he warned Bob not to go in the room.

Conclusion: Dan owes Bob a duty with regard to the chimpanzee.

Sub-issue: Breach



Rule: See above.

Analysis: Dan will argue that he satisfied his duty by locking the chimpanzee in the back room, and then by telling Bob not to go into that room. However, Bob will argue that this was insufficient. Bob will point out that Dan could have done more, for instance he could have told Bob *why* he shouldn't go in the back room. Also, when Dan told Bob to get bandages from the bathroom, Dan could have been clearer in his instructions about which room was the bathroom. Bob had never been to Dan's house before, and therefore had no reason to know which door led to the bathroom and which door led to the room with the chimpanzee.

Conclusion: This is a close call, but Bob can probably show that Dan breached his duty by not being clear about which room is the bathroom when Dan sent Bob to retrieve bandages.

Sub-issue: Actual cause

Rule: See above.

Analysis: Had Dan been clearer in his instructions about which room is the bathroom, it is extremely likely that Bob would not have entered the room with the chimpanzee. As such, Bob would not have suffered the injury.

Conclusion: Therefore, Dan's action is likely the actual cause of Bob's injuries.

Sub-issue: Proximate cause

Rule: See above.

Analysis: First, Dan will argue that owning a wild animal (and not sufficiently warning guests of its presence) could lead to injuries. Additionally, Bob will point out that Dan's failure to give clear instructions regarding the location of the bathroom should have led Dan to foresee that Bob could enter the wrong room and could be attacked by the chimpanzee. Dan may argue that he could not foresee that Bob would enter the wrong room. Bob likely has the stronger argument in this case.

Conclusion: Dan is likely the proximate cause of Bob's injuries.



Sub-issue: Harm

Rule: See above.

Analysis: Bob likely sustained emotional stress when the chimpanzee first made menacing hoots because he was frightened. However, this is not sufficient harm to sustain a claim for negligence. Nonetheless, Bob also suffered actual harm when the chimpanzee gave him a deep gash to the head. The deep gash is sufficient to sustain the harm requirement of a negligence claim.

Conclusion: Bob can establish the harm element of negligence because he suffered a deep gash to his head.

Issue: Assumption of risk

Rule: See above.

Analysis: Dan will argue that Bob assumed the risk of being attacked because Bob went into the back room, even after being warned not to go into the back room. Bob, on the other hand, will argue that he did not know why he was not supposed to go into the back room, and thus did not know what risk he was assuming.

Conclusion: Therefore, Bob cannot have assumed the risk and Dan's defense of assumption of risk will fail.

Issue: Comparative negligence

Rule: See above.

Analysis: Dan will argue that Bob was negligent in entering the back room since Dan warned him not to go back there. Bob may respond that the reason for the warning was unclear, so he did not understand the danger of entering the room. Furthermore, Bob will point out that Dan did not give clear instruction about which room was the bathroom, so it was reasonable for Bob to enter the room thinking that it might be the bathroom.

Conclusion: Dan's argument that Bob was comparatively negligent will fail. However, if the jury finds Bob to be partially at fault, his damages will be reduced by the percentage equal to his percentage of fault.



Issue: Contributory negligence

Rule: See above.

Analysis: Same as above, Bob probably acted reasonably by entering the back room, given Dan's lack of specific warning, and unclear instructions regarding the location of the bathroom.

Conclusion: If the jury does find that Bob was partially at fault, then he would be barred from recovering in a pure contributory negligence jurisdiction. In a partial comparative negligence jurisdiction, he would only be barred if he were more negligent than Dan. However, since Bob likely acted reasonably, his claim will not likely be barred by Dan's contributory negligence defense.