

Essay Evaluation Report

TORTS | Uploaded Practice | May 29, 2026 | 922 words

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SHEP PRACTICE BAND (modeled on MEE
1-6)

Below Passing Expectations

OVERALL FEEDBACK

This is a passing-level answer, but it falls short of a top-tier performance because your rule statements are generalized rather than element-specific. To improve, you must break down each legal test into its constituent parts and map those parts directly to the facts provided in the prompt. Avoid conclusory statements; instead, use the *'Because [fact], [element] is satisfied'* structure to ensure your analysis is rigorous.

Furthermore, ensure you are using precise legal terminology. Your framing of the 'Samaritan rule' and the psychiatrist's duty to warn should be grounded in the standard elements of negligence and foreseeability rather than colloquial descriptions. By focusing on element-by-element application, you will move from merely identifying the issues to providing the thorough analysis required for a higher score.

FROM SHEP'S EYES

You have a great grasp of how to organize your thoughts. Your use of distinct paragraphs for each call makes your essay very readable. You should focus on making your rule statements more precise. For example, in your analysis of the psychiatrist, you state the rule as needing a named person. A stronger version would be: *Under the Tarasoff doctrine, a psychiatrist has a duty to warn when a patient makes a specific threat against an identifiable victim. Here, Ann made a vague threat against former classmates generally, rather than naming Susan specifically. Because Susan was not an identifiable victim, the psychiatrist had no duty to warn her.* This connects your rule directly to the facts of the case.

Structure: Good. IRAC separation -- strong. Organization by call -- strong. Conclusion quality -- adequate (some conclusions repeat the analysis rather than synthesizing the legal outcome).

RECOGNIZED | SATISFACTORY

University's Duty to Protect (Premises Liability)

Your analysis of premises liability is too generalized. While you correctly identify the duty to protect students, you fail to articulate the specific elements required to establish a breach in this context, such as the requirement of notice (actual or constructive) regarding the broken deadbolt. A stronger answer would explicitly state that a landowner breaches its duty when it fails to remedy a known or foreseeable dangerous condition on the premises. For example: *'Because the University had notice of the broken deadbolt on the rear entrance, its failure to repair the lock created an unreasonable risk of harm, thereby breaching its duty of care to Susan.'*

What the grader looked for:

- ✓ **Issue spotting:** Identifies the issue of whether the University had a duty to protect the student from an attack on its premises.
- ✓ **Rule:** Provides a general definition of negligence and asserts a duty to protect students from outside parties, but lacks the specific elements of premises liability (such as notice or foreseeability).
- ✓ **Facts:** Identifies the specific facts regarding the broken deadbolt lock and the rear entrance.
- ✓ **Analysis:** Attempts to connect the failure to fix the lock to the breach of duty, though the analysis is somewhat conclusory regarding the causation element.
- ✓ **Conclusion:** Concludes that the University is liable and provides the reasoning that the breach of duty regarding the entrance led to the injuries.

RECOGNIZED | SATISFACTORY

Jim's Duty to Rescue / Voluntary Undertaking

Your rule statement regarding the 'Samaritan rule' is imprecise. You should clarify that generally, there is no duty to rescue, but a duty may arise if the defendant's own conduct created the peril or if the defendant voluntarily undertakes to assist and does so negligently. Your analysis is conclusory; you state that Jim's actions did not rise to a duty without explaining why his specific conduct -- going to get help -- did not constitute a voluntary undertaking that increased the risk of harm or induced detrimental reliance. A stronger answer would analyze whether Jim's promise to get help caused Susan to forgo other potential avenues of assistance.

What the grader looked for:

- ✓ **Issue spotting:** Identifies the issue of whether Susan can recover damages from Jim based on his comments and actions regarding assistance.
- ✓ **Rule:** Articulates a rule regarding the duty to assist, noting that mere talking does not create a duty, while intentional actions to assist can create liability.
- ✓ **Facts:** Identifies relevant facts, specifically that Jim made comments to assist and that he went to get help.
- ✓ **Analysis:** Attempts to connect the facts to the rule by arguing that Jim's actions did not rise to the level of a duty because he did not take further steps or cause detrimental reliance.
- ✓ **Conclusion:** Concludes that Susan cannot recover damages because Jim did not have a duty to assist her.

RECOGNIZED | SATISFACTORY

Psychiatrist's Duty to Warn (Tarasoff)

While you reach the correct conclusion, your framing of the duty to warn is incomplete. You correctly identify the need for a 'named person,' but you should frame this within the broader requirement of foreseeability: a psychiatrist's duty to protect is triggered when a patient makes a specific, credible threat against an identifiable victim. Your analysis is better here, but ensure you explicitly connect the psychiatrist's lack of belief in Ann's intent to the legal standard of 'foreseeability' rather than just stating the psychiatrist's subjective belief.

What the grader looked for:

- ✗ **Issue spotting:** Identifies the issue as whether Susan can recover damages from the psychiatrist, but fails to explicitly name or clearly reference the specific legal theory of a psychiatrist's duty to warn or protect third parties.
- ✓ **Rule:** Articulates a rule regarding the duty to warn a named person if a patient shares an intent to attack, which captures the essence of the Tarasoff duty, though it is phrased somewhat awkwardly.
- ✓ **Facts:** Identifies the relevant facts that there was no named person to warn and that the psychiatrist did not believe the patient would attack a specific person.
- ✓ **Analysis:** Connects the absence of a named victim and the lack of belief in the patient's intent to the conclusion that no duty existed.
- ✓ **Conclusion:** Reaches a clear conclusion that the psychiatrist is not liable, supported by the reasoning that the duty was not triggered.

RECOGNIZED | SATISFACTORY

PTSD Damages (Eggshell Plaintiff)

Your treatment of the eggshell plaintiff rule is insufficient because you fail to connect the rule to the facts of the case. You state the rule generally but do not explain how it applies to Susan's specific PTSD symptoms. A stronger answer would explicitly state: *'Under the eggshell plaintiff rule, a defendant is liable for the full extent of the plaintiff's injuries, even if those injuries are exacerbated by a pre-existing condition. Because the University's negligence caused the attack, it is liable for the resulting PTSD, regardless of Susan's prior vulnerability.'*

What the grader looked for:

- ✓ **Issue spotting:** Explicitly identifies the issue of whether Susan can recover damages for PTSD symptoms.
- ✓ **Rule:** Articulates the eggshell plaintiff rule, noting that a defendant is responsible for injuries even if they existed prior to the negligence.
- ✗ **Facts:** Mentions PTSD symptoms but fails to cite specific facts from the prompt regarding the nature of the injury or the pre-existing condition.
- ✗ **Analysis:** Provides a conclusory statement that the University breached a duty, but fails to connect the eggshell plaintiff rule to the specific facts of Susan's PTSD.
- ✓ **Conclusion:** Reaches a conclusion that Susan can recover damages, but the reasoning is bare and lacks a strong connection to the rule.