

## ESSAY QUESTION NO. 1

### Answer this question in booklet No. 1

Pat and Jeff are neighbors. Several months ago, Pat suggested that he and Jeff split the cost of building a fence between their yards. Jeff replied that he would never pay for a fence and that Pat better not build one. Pat recently decided to build a fence himself.

Pat had the lumber delivered and started work on a weekend when he knew Jeff would be out of town. Pat dug holes for the fence posts, well within his property line, and hauled away the dirt. On Sunday afternoon, Pat cleaned up his worksite and stacked the lumber near the holes.

That evening, as it was getting dark, Jeff returned home and noticed the stack of lumber in Pat's yard. Jeff went over to investigate. As Jeff walked toward the stack of lumber, he accidentally stepped in one of the post holes and sprained his ankle. Jeff limped back to his car and went to the emergency room for treatment.

The next evening, Jeff and his brother, Brett, looked out the window and saw Pat putting fence posts in the holes. Jeff asked Brett to come out with him to tell Pat why he better stop building the fence. Jeff figured that between the two of them they might be able to intimidate Pat into abandoning his fence project. Jeff hobbled out on his crutches and started screaming at Pat. "Pat, I told you that you better not build a fence. I don't want a fence across the back of my yard. You may as well stop right now and return that lumber to the store. Bring back some cash because you need to pay my doctor's bill." After Jeff explained how he injured his ankle, Pat responded, "Jeff, I told you a long time ago that you should stay off my property. This fence will keep you off. You won't be seeing any money from me."

Brett stepped closer to Pat. Brett asked Jeff for one of his crutches and, raising the crutch in the air said, "Pat, unless you tell me right now that you are not going to build this fence across the back of your yard, you are going to be sorry that you ever met me." While Jeff knew that Brett would never hurt anyone, he said, "Pat, you better listen to Brett, he means what he says." Brett swung the crutch as if to hit Pat. While Brett was bluffing, the crutch lightly glanced off Pat's shoulder. Pat backed away and tripped. Pat landed on the ground in an awkward position and broke his arm.

Pat and Jeff both missed several days of work as a result of their injuries but did not suffer any emotional distress. Pat sues Jeff and Brett. Jeff sues Pat.

What claims will they each assert? Discuss the merits of the claims.