THIS EXAMINATION CONSISTS OF 3 PAGES
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER

THE UNIVERSITY OF BRITISH COLUMBIA
FACULTY OF LAW

FALL SEMESTER EXAMINATION - DECEMBER 2016

LAW 221
Criminal Law and Procedure

Sections 4
Professor Harris

TOTAL MARKS: 100

TIME ALLOWED: 1 HOUR and 10 minutes reading time

NOTE:

1. This is a closed book examination, but students may bring two pages of notes to the exam. The notes can either be on one two-sided page, or two one-sided pages.

2. THIS EXAMINATION CONSISTS OF 1 QUESTION.
Frank Fuller is charged with the following two offences:

Count 1

On the 15th day of February, 2016, in the City of Vancouver, in the Province of British Columbia, Frank Fuller, the owner of a BMW Roadster, did commit the offence of dangerous driving causing bodily harm contrary to section 249(3) of the Criminal Code.

Count 2

On the 15th day of February, 2016, in the City of Vancouver, in the Province of British Columbia, Frank Fuller, did after colliding with another vehicle commit the offence under section 252(1)(b) of the Criminal Code.

At 11:45 p.m. on February 15th, 2016 Frank Fuller finished his shift working as a doctor at a Vancouver hospital. Fuller started driving home in a BMW Roadster he had just leased. About twenty minutes later, Fuller was driving west on Broadway Street in Vancouver, B.C. and was stopped at a red light. The street was pretty empty, but there was a sportscar in the lane beside Fuller going in the same direction. That car was driven by Jane Jar, and she started revving her engine at the stop light. As soon as the light turned green, Fuller and Jar started driving fast. Soon both of them were beside each other going 10 km an hour over the speed limit. Fuller suddenly started drifting into Jar's lane and he bumped the side of her car. Fuller hit his head on his driver's side window when the cars bumped and he pulled over. After Jar was bumped, her car started swerving toward an all-night pancake restaurant on Broadway. Jar's car started slowing down as she was coming close to the restaurant, but Jar then pressed down on the gas pedal of her car and she ended up smashing through the restaurant's front window and breaking a waiter's arm.

Fuller got out of his car and started walking over to the restaurant. Fuller was feeling very dizzy from hitting his head. Fuller saw a police car with its lights flashing in the parking lot of the restaurant. Fuller then went back to his car and drove to the hospital where he worked. Fuller went to see Dr. Lena Li, a brain specialist, and she checked Fuller to see if he had a concussion. Dr. Li found that Fuller had not suffered any serious injury and he did not have a concussion.

At Fuller's trial, the above evidence was called by the Crown, and then Fuller testified in his trial as follows:

I thought I was driving carefully down Broadway when I must have accidentally gone into another lane and hit another car. I hit my head and I was feeling dizzy. I starting walking over to where the other car was when I saw some flashing lights and that caused me to be even more dizzy. I was worried that I might have a bad concussion, so I decided to go and see Dr. Li, a brain specialist, whom I knew was on duty that night at the hospital where I worked.
(Question 1 continued)

Please provide an opinion concerning whether Frank Fuller will likely be found guilty of Count 1 and whether Frank Fuller will likely be found guilty of Count 2. In your opinions, please include a discussion of all essential elements of the offence. Please assume that sections 249(3) and 252(1)(b) of the Criminal Code are constitutional.

END OF EXAMINATION
Class 1: Sources of Criminal Law
Video 1: Introduction to the Crown Proving the Offence: https://youtu.be/savthgDllYls
91(27) of the Constitution Act: pp. 8-11
Codification: pp. 17-18
Defining Criminal Law: pp. 63-71

Classes 2-4: The Impact of the Canadian Charter of Rights and Freedoms
Section 7 of the Charter: pp. 32-36, 97-114

Classes 5-6: The Essential Elements of an Offence

Classes 7-8: The Burden of Proof

Classes 9-10: Defining the Actus Reus
Acts and Omissions: pp. 339-346
Circumstances: pp. 356-359
Concurrence: pp. 401-405
Causation: 361-367, 387-395
Look at Sections 426(1)(a),140(1)(c), 153(1)(a) of Criminal Code

Classes 11-13: Subjective Mens Rea
Video 2: Introduction to Fault Standards in Criminal Law: https://youtu.be/Ok0SyDUUTM

Classes 14-15: Modes of Participation
Principals and Aiding and Abetting: pp. 525-536; 542-552; R. v. Roach 2004 CanLII 59974 (Ont. CA.) (web)
Classes 16-17: Areas of Offences
Class Exercise I: Fact Patterns
Offences against the Person: R. v. Foti 2002 MBCA 122 (web)
Financial Offences: pp. 466-470
Offences Against the Administration of Justice: R. v. Buzeta 2003 CanLII 12456 (Ont. S.C.)(web)
Possession Offences: R. v. Muthuthevar 2012 ONSC 4008 (web)

Classes 18-20: Non-Subjective Fault Requirements
Strict Liability: pp. 415-424, 510-512
Objective Fault: pp. 480-492
R. v. Mills, Hylton, and Dennis, 2013 ONSC 5051 (web)

Classes 21/22: Danger of Wrongful Convictions:
http://www.innocenceproject.org/ (look at 6 causes set out at bottom on web page)
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