

**Internet Law  
Spring 2023  
Midterm**

This examination consists of **one question** and **four pages**. Your answer has a limit of **2,000 words**, which will be strictly enforced. It is due by **11:59 PM on Monday, March 6**. Please submit your answer using the instructions provided by the Law Registrar's office.

This exam will be **blind-graded**. You must not put your name or other identifying information anywhere on your answer. In addition, you must not compromise the anonymity of the grading in your communications with me. If you have any technical issues in taking the exam, you must discuss them with the registrar, not with me.

This is an **open-book** examination. You should not need to consult anything beyond the casebook and your notes, but you can if you wish. You are free to discuss the general legal principles we have covered with anyone, including each other.

You are also free to post general **questions** about the material covered in the course, about the exam instructions, or about the *facts* (not the law) in the problems on the exam in the designated discussion area on Canvas. I will answer all questions posted there before 11:59 PM on Tuesday, February 28.

Aside from the above, **you may not discuss the question** with anyone else until after I have returned your grades. You are also **specifically prohibited** from using any artificial-intelligence or machine-learning system that generates text.

Your work on this examination is subject to the Cornell Code of Academic Integrity, the Law School Code of Academic Integrity, and the Campus Code of Conduct.

### General Advice

Please make your answer as **specific** to the facts of the questions as you can. Generic statements or suggestions, such as “Make sure that all employees follow proper security practices,” will receive few or no points. Use **simple citations** (e.g. “*see Burdick*”) where appropriate. I include **spelling, grammar, clarity, and organization** in my grading. I appreciate the use of headings to organize your answer, but they’re not required. If you find the question **ambiguous** or need to **assume additional facts**, state your assumptions and explain how they affect your answer. No reasonable resolution of an ambiguity will be penalized.

Assume for purposes of the exam that **present-day law** has been fully in effect at all relevant times. Unless otherwise noted, **all names are fictitious**. Please disregard any resemblance to actual persons, places, or institutions.

For purposes of this exam, you are only responsible for the material in the casebook **up through and including section 4.D (personal privacy)**. You also do not need to discuss any of the material we skipped over: criminal jurisdiction, the Commerce Clause, or Section 230.

## Grayed Expectations

Estella Havisham is the author of *Pip*, a widely-beloved children's book that has sold over eight million copies worldwide and been translated into twenty-one languages. Although devoted readers have frequently begged her to write a sequel or another book, instead she used her royalties from *Pip* to buy a house on a large plot of land in the town of Wemmick, in a rural part of Montana, where she has lived quietly for decades. Other than the fact that she would now be in her sixties, very little is publicly known about her life after *Pip*.

Charles Pirrip is a novelist who lives and works in New York City, New York. He keeps a blog that describes his writing process, reviews recent books, and shows off his collection of *Pip* memorabilia (including promotional posters and copies of every international edition). The blog is hosted by Cohort, a cloud-services company. Pirrip's particular blog, it turns out, is hosted on a server in California, although Pirrip has never been aware of this fact.

For the fortieth anniversary of the first publication of *Pip*, Pirrip decided to write a "where is she now?" post about Havisham. He began reading every online source he could about the Wemmick community, such as the Instagram page for the town's volunteer fire squad and the Yelp reviews of the eight businesses and two restaurants in town. He noticed that John Jagers was listed as the administrator of the closed-membership Facebook group Wemmick Residents and Friends. Pirrip sent a Facebook message to Jagers, claiming to be a resident of Magwitch, a town about fifteen miles away, and asking to be added to the group, which Jagers did.

Once in the group, Pirrip read through its archives and discovered that Havisham was an avid hunter. Pirrip, who is vegan, was particularly angry because one of the main characters in *Pip* gives a famous and widely-quoted speech about the evils of hunting. He decided that it was his responsibility to expose what he saw as Havisham's hypocrisy, and published a post to his blog that quoted extensively from the Facebook group, including screenshots.

Pirrip's post inspired a Twitter firestorm, in which numerous users tweeted links to the post, along with their own criticism of Havisham. This

in turn inspired a backlash from Twitter users who hunt, which inspired a backlash to the backlash, and so on.

Several Twitter users were inspired to go to Wemmick to investigate for themselves. One of them, Camilla Compeyson, drove out from her home in Seattle, Washington. She interviewed some of Havisham's neighbors, who were mostly friendly and supportive of Havisham, although a few of them claimed that she was a poor tipper and slow to pay her bills for things like firewood deliveries and home repairs. In addition, Compeyson flew a drone over Havisham's house, taking photographs through skylights in the roof. One phot was of a bearskin rug on the floor of the bedroom; another was of deer heads mounted on the walls of the living room. She sent the videos of the interviews and the drone photographs to Pirrip, who posted them on his blog.

Havisham has never had a public webpage or Twitter account. But a number of users were able to identify her Facebook account based on Pirrip's screenshots. They posted hundreds of comments like "Murderer!" and "You should be ashamed!" to every visible thread she had posted to, and spammed her Facebook account with thousands of friend requests from newly-created accounts with names like Youwilldie Liketheanimals Youhunt and profile pictures showing crosshairs over Havisham's author photo from *Pip*. In addition, someone drove past Havisham's property in the middle of the night and filled her mailbox with feces.

Havisham has retained you to advise her on her legal options. She is concerned for her safety and upset at the unwanted attention. She would like to return to her quiet day-to-day life in Wemmick.

*Write a memorandum to Havisham of 2,000 words or fewer describing her legal options. If she files suit in a Montana court against Pirrip, Compeyson, and the unknown Facebook users, what practical or procedural obstacles will she face, what rights can she assert, what defenses will they raise, and what relief is she likely to be able to obtain? (You do not need to address suits against Twitter, Facebook, Cohort, or any other parties, or consider any other locations to file suit.)*