Chapter 3

1. Ideally, the threat of tort liability internalizes risk, but excessive liability can result in the reduction or elimination of otherwise beneficial services or products. An area where this is particularly troubling is medical malpractice. Discuss the various proposals for tort reform in the context of this trade-off.

2. Briefly review the history of products liability law in the United States. Discuss the trend in light of the economic theory of tort law.

3. Why might the efficient liability rule for a product-related accident differ depending on whether the victim is a bystander or a purchaser of the product?

4. Should a physician who chances on an injured person be compelled to treat that person? All states have so-called "good Samaritan laws," which protect physicians from lawsuits in circumstances where they render aid to injured persons. Why does such a law make sense? Should it apply only for medical professionals?

5. Discuss the pros and cons of instituting a workers' compensation-type system for medical malpractice claims.

6. Strict liability for the manufacturer of a dangerous product means a finding of liability without a finding of fault. What does this mean? Will strict liability necessarily result in safer products than other liability rules?

7. When a physician leaves a job, he or she often has to make a lump-sum payment to the insurance company that has covered him or her for medical malpractice. (This is called "paying the tail.") What is the reason for this? Does it make economic sense?

8. Most people have insurance for losses sustained by accidents, whether property or personal injury. They also often have insurance for liability resulting from injuries they cause to others. Discuss the impact of insurance on the operation of the tort system, particularly as it affects incentives for precaution by injurers and victims.

9. What are the advantages and disadvantages of "vicarious liability," meaning the liability of one person for damages caused by someone else, usually his or her employee?