

QUESTION 1 – One Hour

Discovering that he was out of brandied cherries, Tom decided he had just enough time to run to Booze Warehouse for a new jar of his favorite brand before his cocktail party guests arrived. Pulling into the crowded parking lot, Tom elected to risk a ticket by parking in the blue-lined handicap parking spot nearest the door; his guests were due in 20 minutes.

Observing the young and obviously physically capable Tom leap from his car and sprint into the enormous liquor store, Meg felt outraged at his use of the handicapped-only parking place. Crouching beside Tom's sleek new convertible, Meg restrained herself from scratching the car's glistening paint and instead let all the air escape from the two tires on the passenger side.

Inside the store, Tom grabbed two bottles of brandied cherries and jogged toward the checkout counter. Ira, distracted by the balloons and neon display signs, failed to see Tom at the intersection of their two aisles and moved his cart into Tom; a jar of cherries slipped from Tom's grasp and shattered on the floor. "Idiot!" screamed Tom, "If you weren't so old, I'd smash you!" Ira, nearly deaf and confused by the sudden uproar, heard only "...smash you!" issue from Tom's rage-contorted lips. Happy to have an opportunity to try out the self-defense techniques he'd practiced for years at the Senior Center, Ira delivered a side kick to Tom's left knee, shattering the joint; Tom fell howling to the floor.

Seeing the commotion over the security camera, guard Sue ran down the stairs and burst through the swinging doors between the storage area and the store. The heavy door struck Norm in the nose. Blinking through the pain, Norm pursued the sprinting Sue down the main aisle. Arriving at the scene, Sue was pulling her pistol to deter Ira from continuing to kick the now-unconscious Tom when she slipped in the cherry juice from the broken jar. The gun went flying, striking the pursuing Norm's already bleeding nose. Peering through his watering eyes, Norm thought the prostrate Tom was the person Norm had been chasing; Norm joined Ira in kicking Tom.

Sue, rising from the mess of cherries and broken glass, saw Norm holding her pistol and kicking Tom. She remotely activated the store's security system, locking all doors and sounding a deafening alarm bell. Hundreds of panicked customers massed at the locked doors; many were injured by the crushing pressure before the doors burst outward, freeing the crowd.

Discovering he still had Sue's pistol, Norm felt that fate was smiling on him. He stopped kicking Tom's now lifeless body and pushed Ira away also so he could take the car keys from Tom's pocket. Grabbing a case of expensive brandy, Norm ran to the nearly empty parking lot and pressed the panic button on the key, identifying Tom's expensive car by flashing lights and horn. Dropping the brandy into the back seat, Norm slid behind the wheel and started the car. Norm's intended rapid escape was frustrated by the car's two flat tires; instead of leaping forward the powerful car spun sideways, ending up atop passerby Mike and his bicycle. Sighing, Norm opened a bottle of brandy and drank deeply as he listened to the approaching sirens.

Discuss the incidents above in light of the principles of tort law you've learned this semester.

QUESTION 2 – One Hour

Jim was thrilled that his life-long dream of being a wilderness guide was about to come true. The last part of his state certification process was to lead a group of hikers on a week-long trek through the back country. Licensed guide Ruth was along to observe.

On the last morning of the trip, Jim and his group of 10 hikers were about to cross the final landmark of their trip, the Hooligan River, a rushing stream running through a rocky canyon. Hoping to make up some time to bring them into basecamp on schedule, Jim considered a shortcut indicated on his map that he had never hiked. “What do you think Ruth?” he asked. “You’ve been down this steeper part before, right?” Ruth was aware that the “shortcut” was very arduous and that this group of novice hikers might have to turn back, but--hoping to spoil the trip and prevent Jim from becoming a competitor—she told Jim it would save two hours. Looking at the darkening sky, Ruth added, “With rain coming, we ought to take the faster route.”

The group descended the steep trail as rain began to fall. It was soon a deluge, washing mud and small stones down the trail. Knowing the steep canyon walls would soon funnel the runoff into the river below and make crossing impossible, Jim urged his group to greater speed, still hoping to keep to his schedule. Ruth, delighted at this misadventure’s cost to Jim’s future as a guide, told Jim that she would run ahead and scout for the best crossing point. Reaching the rising river, Ruth carefully traversed the wooden beam that served as a bridge, then pushed the end of the beam off the bank and watched the swirling water carry it downstream.

Wet, tired, and discouraged, Al sat down on a trailside boulder. “I’m waiting here until the storm’s over,” he said. Now worried they couldn’t climb back out, Jim shouted “No! We’ve got to get across the river and up to higher ground.” Jim grabbed Al’s jacket and jerked him to his feet. “Go now!” Jim commanded as he pushed Al along the trail. Reaching the rising river, the group looked frantically for a way to cross. A distant rumbling grew louder. “Flashflood!” shouted Jim. “Drop packs! Run!” Jim brought up the rear of the group, pushing Al ahead of him. A 20 foot high wall of water surged around the rocky bend and swept Jim, Al and two others into the river. Their bodies were found three days later.

The seven remaining hikers huddled in shock just a few feet from the torrent, unable to climb higher through the mudslide slowly pushing them toward the river. The Sheriff’s search and rescue helicopter spotted the group and recognized their dangerous position. Pilot Megan hovered 20 feet overhead as deputies lowered harnesses to pull 4 of the hikers aboard, the maximum the helicopter was rated to carry. Realizing that the mudslide would overwhelm the others before she could return, Megan told her crew to pull all seven aboard. Applying full power, the helicopter rose unsteadily. A flash of lightning struck the craft and sent it plummeting into the hillside.

The state’s Transportation Code provides, in section 102: “No aircraft shall be loaded with passengers or freight to an amount exceeding the aircraft’s rated capacity. Violation of this restriction is a misdemeanor.”

Discuss the incidents above in light of the principles of tort law you’ve learned this semester.