

**QUESTION 1**  
**(One Hour)**

Sue was dumbstruck when her unknown uncle's will made her the owner of his desert resort, The Palms. She was even more stunned when she arrived to take possession of the property. Driving down a dirt road 4 miles from the nearest paved road, she saw a weakly flashing neon sign in front of a dark motel announcing that she had found "Th P lms." Knocking on the office door, she awoke Jim, the sole employee, who told her there hadn't been any guests in months. Sighing, Sue chose the least dusty room and went to sleep.

Sue awoke with a plan. She would use her internet marketing experience to sell educational tours of the local desert's medicinal plants and herbs to aging hippies around the world, who would stay at The Palms. She designated Jim as the tour guide, while she would work the desk and mix cocktails at the sundown social hour by the pool. When Jim expressed reservations about his non-existent knowledge of botany, Sue handed him a copy of a slim paperback book on desert plants. "You'll be an expert by tomorrow," she assured him.

Five weeks later all the rooms at The Palms were booked with paying tourists eager to learn about exotic desert plants. The accommodations were not as luxurious as Sue's online brochure had portrayed them: the plumbing was old and noisy, the walls were so thin that the Grateful Dead tunes playing in Room 3 could be heard all the way to Room 8, and the pool was a bit murky. Nonetheless, aside from four elderly visitors who fell asleep by the pool and suffered severe sunburn, most of the guests seemed happy to wander around the surrounding desert, waiting for the next tour by Jim, who Sue had advertised as a world-renowned herbalist.

Eight guests climbed into Jim's van for a short drive to a canyon full of sparse desert growth in a nearby state park. Wearing his safari outfit, Jim pointed out various unique plants and described their characteristics; most of his information was fabricated. Kneeling by a small flowered plant, Jim announced that federal researchers were studying its remarkable anti-cancer properties; unknown to Jim, the tiny plant was toxic and potentially fatal. Ann, recently diagnosed with terminal cancer, plucked the tiny plant and swallowed it whole. Within minutes she lay gasping on the trail. Retired paramedic Lynn attempted to give aid, but was shoved aside by Storm, a self-proclaimed healer who began to chant and massage Ann's feet. Jim rushed back to the van, and sped back to where Ann lay unconscious as Storm repeatedly pushed Lynn away, though she told him she was a paramedic. Because he had forgotten to get the brakes on the van fixed, Jim couldn't slow in time and the van struck Storm, Lynn, and the prostrate Ann.

With help from the other guests, frantic Jim loaded the three bleeding bodies into the van and drove madly for the nearest town. A guest of The Palms, having consumed 8 of

Sue's famous cocktails at the social hour, was spinning circles in his truck when he collided with Jim's van. All five perished in the resulting fire.

At the time of these events, State Law 21-6 stated: "To preserve the pristine desert environment, no person shall harm or remove any plant found within the State Parks."

Discuss the civil liability issues presented in light of the principles of tort law.

**QUESTION 2**  
**(One Hour)**

Inventor and aspiring billionaire Ted's newest offering to the public was the Botbike, a solar-powered electric bicycle. An on-board computer guided the bike through traffic, sensed stop signs and signal lights, and followed directions supplied by satellite mapping. Ted had managed to sell a few to wealthy clients around the world, but he wanted to make them a common feature in his city, to prove their viability in all situations. Ted contacted his state representative, Stella, to whose campaign he had contributed generously. Stella agreed to sponsor a bill to purchase 200 Botbikes for use by government employees in the city. Ted didn't tell her about the lingering safety concerns his engineers had raised: on warm days and when going up hills, the heat from the bike's electric motor sometimes affected the functioning of the satellite mapping and steering units. Ted hoped that issue had been mostly resolved; he also chose to override the engineers' recommendation that an emergency brake be installed. "No way," Ted countered. "That suggests the bike's systems could fail. We don't do failure here." National news reported on the Botbike's use by the state and sales rose.

The new Botbikes were delivered to a few select bicycle shops in the city for check-out by government workers that spring. Rick, the owner of the largest bike shop, had a visit from the city zoning enforcement officer, Nan. Nan's brother owned a competing bike shop that also hoped to lease the Botbikes. Nan told Rick that if he leased or sold any Botbikes, she would be reviewing his city license and, she said, "I almost always find a violation. I might have to shut you down." Rick was also dealing with complaints from three residents of the adjoining apartment building: the new Botbike sign atop Rick's store was so bright that the neighbors couldn't open their apartment drapes at night without being blinded.

Jill was using a Botbike for the first time, traveling through crosstown traffic to attend a meeting. She prepared to dismount as the bike slowed as it approached her destination, but the bike accelerated again and took her onward. The warm afternoon and hilly terrain had overheated the control unit. Jill couldn't stop or steer the bike. She punched 911 on her phone. As the crazed bike zipped through traffic, police cars with sirens wailing gave chase.

In Ted's office, the news of Jill's predicament triggered immediate activation of Plan ONO, which froze all Botbikes in the city. Some were in the middle of intersections, others were passing cars, but all came to a sudden stop, causing multiple collisions and some injuries to the riders. The police car closely following Jill to attempt to rescue her was unable stop as quickly as the bike and struck Jill, who suffered severe injuries.

After some investigative work, consisting mainly of buying drinks for staffers in Stella's office, the politics reporter wrote a story for the city's largest newspaper about Stella and Ted that made headlines: "Representative Stella gives state contract for killer bikes to major donor! Private relationship rumored!" Stella called the editor of the newspaper to clarify that she didn't know about the bikes' danger and that she had no personal relationship with Ted, but the editor refused to talk with her. Photographers working for

the newspaper used high tech cameras to take photos of Stella and her fiancé in their bedroom, which the paper published under the caption “Stella snuggles in love nest as her chosen bikes maim riders!”

Discuss the civil liability issues presented in light of the principles of tort law.