

QUESTION 1 – One Hour

Bill had invested ten years into renovating a crumbling Victorian mansion. His trusted general contractor, Sig, told Bill that the waterfall and pond Bill envisioned in the back yard would likely cause the water table beneath the adjacent downhill property to rise, with complications for the neighboring property. Bill consulted with Jane, a mining and excavation expert, who designed a barrier of impermeable plastic to be buried deep along the property line between the two homes. Both projects were completed within the month.

The cascading waterfall and fish-filled pond were soon being used as a public pool by local teens whenever Bill wasn't around to chase them away. Erecting a fence did little to deter the more agile youth but Bill was unwilling to compromise his creation with a removable plastic safety cover. The plastic barrier Jane designed was more like a sieve; a constant stream of water from Bill's lake made a swamp around Al's home next door.

Bill returned from a business trip one summer evening to the sound of sirens converging on his home. Lisa, one of the dozen high school kids who had climbed the low fence around Bill's miniature lake, had fallen from the 20 foot high waterfall and was lying unconscious. Her friends had called 911. Even after the paramedics explained their presence, Bill was unwilling to allow them into the yard and locked the security gates.

Neighbor Al, hearing commotion next door, stepped from his backdoor into a new knee-deep puddle from the slow flood created by Bill's leaking pond. Enraged, Al bolted the end of a spool of copper cable onto a 20 lb. iron dumbbell and tossed it over the fence into Bill's pond. Al began to attach the other end of the copper cable to his high amperage home generator.

As other police officers knocked down Bill's security gate, Officer Sally approached the crowd of neighbors gathered on the sidewalk. She confronted the only two persons in the crowd with red hair, a physical trait Sally's crazed boyfriend had convinced her was the mark of evil. Sally ordered the two to lie face down; she handcuffed them and shackled their ankles. When they attempted to ask Sally why they were bound, Sally tasered them both and ordered her partner to transport them to jail for resisting arrest.

Paramedic Todd was the first to reach the unconscious Lisa. One of her teenage friends had been attempting to revive her by pressing on her fractured ribs, which had punctured her lungs. Todd shoved the youth aside and knelt in the shallow water just as neighbor Al activated his generator. Todd and Bill's tropical fish were electrocuted instantly. Todd's body fell across Lisa's, further impairing her breathing. Lisa died at the scene.

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

QUESTION 2 – One Hour

Inventor Ann worked for years to develop a rapid and inexpensive method of wine fermentation and flavor control. Rather than months of painstaking effort by experts using expensive grapes, Ann's process allows anyone to produce richly complex wine in a matter of days, with cheap grapes and equipment costing a few dollars. Wine critics were aghast when a range of wines produced with Ann's new method were chosen over the most noble and respected of the world's wines at international competitions. Ann began to sell winemaking kits under the name "Wine Now."

In an interview with a national magazine, winemaker Zack said: "Ann's process is a complete fraud. You can't call the alcohol-laced juice that it produces wine; it's really more like floor-cleaning solution." When the magazine published the article under the title "Sour Grapes," Zak's quote was used but the journalist described Zak as "a defrocked former priest hiding in the wine industry and laundering drug cartel profits, who has been under investigation for suspected child porn connections." The journalist, in doing his research, had inadvertently confused Zak with another winemaker with a similar name.

Paul, a third generation winemaker, used information he obtained from his private investigator to file a complaint with the state's department of health. The complaint accurately stated that Ann's "Wine Now" kit was using a plastic funnel that had not yet been approved for food processing; the approval was only days from being granted. Paul's publicist issued press releases to news outlets which referred to Ann's kit as using "unapproved, possibly toxic materials" and that the department of health was "investigating."

As chair of the state's winemakers association, Tess has communicated her extreme displeasure with the Norm's Groceries chain when it began selling "Wine Now" kits by directing all her members to refuse to sell wine to Norm's Groceries; all the members did so.

Beset by negative publicity and powerful opponents, Ann's new business was in trouble. Unable to pay union wages, Ann hired a number of unskilled workers to assemble the kits. When new worker and non-English speaker Ted ran out of stabilizing compound "1A" to add to the "Secret Formula" jar, he opened a new box of containers labeled "1A." Stella, a talented burglar hired by winemaker Paul, had switched the labels on compound "1A" and catalyst "N4R" the night before. The liquid produced by these kits looked and smelled like wine, but was highly caustic and permanently damaged the tastebuds and vocal cords of dozens of people who swallowed it.

The state in which Ann's factory is located had earlier enacted Employment Code §63: "To promote effective communication among workers and avoid industrial accidents and errors, all persons employed in this state must speak functional English. Failure to require proof prior to employment subjects the employer to treble damages for any injury or economic harm caused by the failure of any employee's language skills."

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