

QUESTION 1
(One hour)

Alice had labored for years to make Leap, her coffee shop, the best source of caffeine in the city. She had many devoted customers, but now she was taking the brew art to a new level: she purchased one of the first Volcano espresso machines, which used dazzling lasers to instantly vaporize ground coffee and water in an air suspension, which would then condense into a cup of coffee that Alice believed would secure her reign as queen of coffee.

The new Volcano machine performed perfectly in the first trials. Coffee beans and water were funneled into a heat-proof glass sphere which displayed a starburst of brilliant light when the laser was activated. Once condensed to a liquid, the rich and fragrant brew was like nothing Alice had tasted before. She resolved to begin serving it the next day. One of her staff brought up a cautionary note: the printed instructions from Volcano stated that the high temperatures generated in the process “could have unpredictable effects if artificial ingredients are present in the coffee beans or in the water, therefore only pure water and organic coffee should be used.” Alice assured her staff that all the coffee was certified organic and that the water used was bottled from mountain streams. As a precaution, Alice had her unemployed art-major son craft a large, colorful sign which she hung over the counter for the opening, which read: “Our new Volcano espresso is brewed at the temperature of the surface of the sun! Only the adventurous should partake!!”

A line of coffee addicts formed outside Leap before the door opened at 6 a.m. The Volcano machine was in constant use, garnering praise from happy customers. By mid-morning the supply of coffee beans was running low; staff member Joey was dispatched to buy more organic beans from a market down the street. Tom, the proprietor of the small market, lifted an unmarked 20 lb. sack of cheap beans by mistake from the “commercial grade” pallet in the dimly-lit backroom of the store; he sold it to Joey at the higher organic bean price.

The new beans produced the same burst of light when hit by the Volcano’s laser and the resulting coffee looked and smelled like the earlier product. It wasn’t until a customer fell unconscious from her chair, followed in moments by more swooning patrons hitting the floor, that Alice realized something was amiss. Later analysis showed that traces of synthetic fertilizers still clinging to the cheap beans Tom had sold as organic were transformed by the laser’s intense heat into an opiate-like narcotic that produced sedation and impaired breathing. Dozens of Leap’s customers were hospitalized; three died from drinking the brew.

Expecting a rash of lawsuits, Alice's lawyer Jill issued press releases, stating that market owner Tom was a "violent criminal" who had poisoned Alice's customers with "tainted beans" and that he had a history of endangering the public by "violating Health Department regulations." Tom had been arrested 20 years earlier after a drunken argument with a neighbor, but had been acquitted at trial. When Tom first bought the market 7 years earlier, it failed the first Health Department inspection because the former owner had the refrigerator temperature set too high. Tom had corrected it immediately when informed of the problem.

State statute BC section 12 was valid at the time of this incident: "It is unlawful to sell any food product as "organic" which has not been certified by state authority and so labeled."

Discuss the applicable doctrines of tort law presented in this situation.

QUESTION 2
(One hour)

Finally retired, Jim moved to the peace and quiet of the country. Perched atop the only hill in the county, his cabin sat on the one of the few paved roads outside of town. After moving in on Tuesday, he had walked down the hill to meet his neighbors. After many cups of coffee and small talk, he was satisfied that those living around him were the quiet, unassuming country folk he had hoped to know.

On his first Saturday in the country, Jim was awakened soon after dawn by the sound of birds in the tree outside his window. The gentle chirps were soon drowned out by the shriek of metal wheels on pavement and the shouts of the dozen skateboarders using the steep paved road just steps away from Jim's door, as they did for some hours every Saturday and Sunday.

Jim took a deep breath and stepped outside with a smile. The young men and women ignored his greeting. When Jim stepped closer to the street they zoomed within inches of him. When he tried to ask the group if they could move down the road just a short distance, Jim was verbally abused and told to stay off their road; an empty energy drink can sailed by his head and the most tattooed of the skaters opened Jim's mailbox and spit inside. Jim went back indoors and slowly punched in the number of the local sheriff's office.

Deputy Sue slowly drove into Jim's driveway, skaters shooting past on either side, some slapping the car. Chatting with Jim on the porch, they watched the skaters making videos of dangerous maneuvers, with the boards occasionally flying solo into Jim's yard. Sue told Jim it was a public road and, so long as they didn't impede traffic, there was nothing she could do. "You need to learn how to get along out here, Jim. If I get any more calls from you, I may have to start ticketing your car wherever I see it, or maybe ring your doorbell at 2 a.m., just to see if you're home. Understand?" Sue waved to the skaters as she drove off.

Outraged but not defeated, Jim moved the powerful amplifier and four large speakers to the porch. He began playing his favorite opera at full volume. The skaters laughed and made rude gestures as they turned up their earbuds, ignoring the classical audio storm from the porch.

Jim went into his fenced back yard and tried to relax by doing some yoga poses. One of the skaters held a cell phone above the tall fence and took photos of Jim wearing only his underwear. That very unflattering photo was on the front page of the local paper the next day, heading a story written by the aunt of two of the skaters, entitled "Interloper interferes with local youth recreation."

When the skaters began to arrive the next Saturday, they found Jim busily hosing the roadway, the stream of water arcing across the road and making lovely rainbows in the mist. They tried to skate on the wet road, but Jim had attached a container filled with oil, which was siphoned into the hose stream. The skaters slid and fell heavily; some were injured. The skaters attacked Jim with their boards, beating him senseless. The first car to crest the hill slid wildly off the road, striking the group of skaters and running over Jim. Some of the skaters tried to help their injured friends while others called 911. Speeding to the emergency, the ambulance slid on the slick pavement and crossed the lane line, striking Deputy Sue's patrol car as it came in the other direction. Because Sue wasn't wearing her seatbelt, she was ejected through the window of her car. Both Jim and Sue died at the scene.

Discuss the applicable doctrines of tort law presented in this situation.