

QUESTION 1 – 1 Hour

Nan wanted to impress Ed on their first date. Knowing from his personal ad that Ed loved elephants, Nan bought tickets to the circus arriving on Saturday but would only tell Ed their destination was a surprise.

Ed's eyes grew wide when they arrived at the fairgrounds. The grand circus tent instantly triggered Ed's life-long fear of clowns, but Nan misread his expression as one of wordless delight. Tugging Ed's hand, Nan happily told him of her shared interest in elephants. Unwilling to disappoint Nan or appear afraid, Ed smiled crookedly and forced himself forward. Ed's increasing terror transformed the smell of cotton candy into the odor of death; the droning calliope music sounded to him like the shriek of frenzied demons. Nan chatted on about childhood memories as she found two seats in the front row of the center ring. The spotlights grew bright and Ed's hands began to shake. Ron, seated just behind, noticed Ed trembling. Hoping to win Nan's attention, he loudly scoffed, "What's wrong, wimp? Can't take the excitement? If this pretty lady wasn't here I'd punch you out." Ed was humiliated but, paralyzed by his clown terror, didn't respond.

Fortunately the first performers in the center ring were trapeze acrobats. Ed desperately focused on the graceful performers, horrified by the thought of clowns appearing in the dirt ring. Nan eagerly pointed at the two elephants waiting in the wings. As she watched, one of the trainers struck his inattentive elephant with his hand. A life-long defender of animals, Nan rose in outrage. Ed followed as she strode purposefully around the ring toward the elephants.

Willie, a tall clown with purple hair and orange shoes, emerged from the shadows to prevent the two from crossing between the performance areas. Catching up to them, Willie grabbed Ed's arm from behind. Turning and seeing this figure from his nightmares, Ed shrieked and pulled away, stumbling over the ring perimeter and falling onto the acrobat's trapeze control line. The impact jerked the swinging trapeze sideways, causing Jill to fall from the bar and outside the safety net, landing on audience member Tim and killing him. Still screaming incoherently, Ed ran toward the exit with Willie and a posse of clowns close behind. Thinking to prevent the escape of this deranged killer, the security supervisor ordered his team to close and lock all the exits.

Unaware of the incident behind her, Nan confronted the elephant trainer in a loud voice. Speaking little English, the trainer just smiled. Infuriated, Nan grabbed the smaller man by his shirt and began to shake him violently. The elephant instantly moved forward to protect her trainer, lifting Nan high aloft with its trunk. Nan's screams were echoed by nearby audience members, who thought the elephant was running amok. The panicked crowd surged against the now-locked exits. When they realized they were unable to escape their panic increased. Dozens were trampled in the confusion; some died.

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

QUESTION 2 – 1 Hour

Barb owns a chic salon. New customer Mitch asks for the full spa treatment, unaware that the facial cream Barb uses contains peanut butter, to which Mitch--like 2 % of the general public--is allergic. His skin began to itch; Mitch was soon gasping and barely able to stand. Concerned that her other patrons might find his appearance distressing, Barb ordered Mitch to leave the premises. His symptoms increasing in severity, Mitch wheezed his need for an ambulance. Unwilling to see her business tainted by the bad press of this incident, Barb directed her brother Skip to drive Mitch to the hospital. Skip reminded Barb he lost his license last year, but Barb gave him her car keys and helped Skip deposit the gasping Mitch in the back seat of the car.

Feeling anxious at being behind the wheel again, Skip made a quick detour to the drive-through window of his local liquor store for a pint of gin, which he began to drink immediately. He activated the car's emergency flashers as he approached the hospital emergency room, thinking it would alert the medical staff to the emergency. Sam, speeding up to beat the yellow light at the intersection in front of the hospital, became distracted by Skip's flashing lights and failed to see jogger Jen, who had left the curb before her walk signal to better maintain her pulse rate. Jen was knocked into the air by the impact. Skip, about to turn into the hospital, was suddenly confronted by Jen dropping from the sky immediately in his path. Skip slammed on the brakes but no one could have stopped in time; Jen was struck again and was dead when the paramedics arrived.

Lugging the now-unconscious Mitch into the emergency department, Skip shouted for assistance. Nurse Jackie ran to them and began to assess the situation. Smelling the alcohol emanating from Skip, Jackie assumed Mitch was simply inebriated. Frustrated with yet another street drunk in her ER, Jackie directed Skip to put Mitch in an empty room to sleep it off.

Skip became frantic as Mitch began to turn blue. As he ran toward the nurses' station he slipped on the very slippery, recently mopped floor and fell heavily, hitting his head. Stunned, Skip rose to his feet and lurched down the hall, intent on getting help for Mitch. He passed out and fell against patient Sally, who was knocked to the ground, re-breaking her leg that had been repaired the day before. Mitch died moments later.

At the time of this incident, the laws of this state include Vehicle Code 16, which states: "To ensure safe and competent operation of motor vehicles, no person whose license is then suspended shall drive any motor vehicle on any roadway of this state. Violation of this section is a crime. Any person who knowingly permits a suspended driver to operate a vehicle is also in violation of this section."

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