

QUESTION #1

Sam, Jack, Jack's priest Patrick, and Jack's lawyer Perry, played a round of golf in 2008 at The Golf Club of Kentucky, a privately-owned club in Franklin, Kentucky. Having arrived at the 18th tee, Sam realized he had left one of his clubs on the 16th green. He left the other three players and took one of the golf carts to retrieve his club.

As he was racing across the 16th fairway, he caused the cart to come in contact with a plastic rope which was stretched across the fairway and anchored at both ends with steel reinforcing rods implanted in the ground. The plastic rope was about three feet or so off the ground and was there to act as a barrier to protect the sod from golf cart traffic. The rope caught the front of the cart and rode upwards catching Sam at his neck, jerking and throwing him from the cart and causing him serious and gruesome looking injuries.

Sam was sprawled on the ground, conscious but startled, bleeding, in an agitated state and fearing for his life. Sam being gone longer than expected, Father Patrick went looking for him and found him minutes after the incident. When he reached Sam, Sam said to him, thinking he may not survive, "Father, tell my wife I love her and let her know that I should not have been so reckless and driving so fast." Father Patrick left to get help. Several minutes later, Perry arrived. Sam was still conscious, and said to Perry "I saw the rope and thought I could get under it, but do you think I still have a good lawsuit?"

Help arrived, pictures were taken of Sam and he was taken to the hospital where he died the next day. Sam's Estate has brought a wrongful death lawsuit against The Golf Club of Kentucky claiming the club was negligent in maintaining the rope barrier.

At the trial, there was testimony from treating physicians and medical reports in evidence from Sam's hospitalization concerning Sam's pain and suffering. The Golf Club of Kentucky stipulated to the severity of Sam's injuries. The Golf Club of Kentucky seeks to admit testimony from Father Patrick and Lawyer Perry about what Sam said to them. In addition, The Golf Club seeks to offer as an expert witness, the club's golf professional, to testify concerning golf course maintenance and safety and that the use of rope barriers are a safe and recognized method of traffic control on a golf course. The golf pro has no specialized training in golf course maintenance or safety, but he has been a golf pro for over 15 years and knows golf courses.

Sam's Estate opposes the admission of all such testimony. In addition, Sam's Estate seeks to introduce the photographs of him after the accident to bolster the pain and suffering claim.

You are the trial judge. State and discuss the basis of your rulings on whether the following are admissible into evidence: (i) Sam's statement to Father Patrick; (ii) Sam's statement to Lawyer Perry; (iii) expert testimony from the golf professional; and (iv) the photographs of Sam.

QUESTION #2

Cheap Stores, Inc. ("Cheap"), a Kentucky corporation, operates a retail clothing store in Glasgow, Kentucky.

Brent Thomas owns 10% of Cheap's stock and has served on its Board of Directors and as its president since 2002.

Joe Meany, the founder of Cheap, owns the remaining stock and serves on Cheap's Board of Directors. Meany originally hired Thomas as president of the company and sold Thomas stock in Cheap because Meany wanted to retire to his cabin on the Barren River. Meany told Thomas that, over time, he would transfer additional Cheap stock to Thomas. However, Meany needs to maintain the income from his Cheap stock (because of his upcoming marriage to a much younger woman) and thus, he has not transferred any more stock to Thomas.

The Board of Directors of Cheap has been actively pursuing the purchase of an outlet store in the area to promote the sale of its inventory and to expand business opportunity. The Board of Directors unanimously supports this business plan.

Recently, Thomas, while meeting with a Cheap supplier, was confidentially tipped off that Outlet, Inc., an outlet store in nearby Bowling Green, is for sale. The Outlet, Inc. location would be perfect for Cheap's business plan.

Since he is angry with Meany because he had not received the promised additional stock, to permit him to be the majority shareholder, Thomas decides to purchase Outlet, Inc. for himself. Thomas has not made Cheap's Board of Directors or Meany aware of the Outlet, Inc. business opportunity or his plan to personally purchase Outlet, Inc. for himself.

1. Assume Meany and the Cheap Board of Directors learn of Thomas' negotiations with Outlet, Inc. prior to his purchase of Outlet, Inc. What remedies are available to Meany, as a majority shareholder, and/or the Cheap Board of Directors?
2. Assume Meany and the Cheap Board of Directors learn, after the fact, that Thomas has in fact purchased Outlet, Inc. What remedies are now available to Meany, as a majority shareholder, and/or the Cheap Board of Directors?
3. Assume that because of the present economy, Cheap Stores, Inc. did not have the financial resources to purchase Outlet, Inc., at the time it was purchased by Thomas. What would be your advice to Brent Thomas in defense of any claim on behalf of Meany, as majority shareholder, and/or the Cheap Board of Directors?

QUESTION #3

The age of majority in this jurisdiction is 18. John, age 18, and Mike, age 17, were best friends. Mike had just received his driver's license and wanted to drive John's new Camaro, a \$40,000 vehicle. John agreed, and let Mike drive the two of them to a sporting event. Unfortunately, Mike crashed in route; the Camaro was a total loss; and both boys were injured. An ambulance took them to the hospital and after each boy signed a written consent and agreement to pay for his respective treatment they were admitted for medical treatment. No parents signed anything at the hospital as they were all out of town.

While in the hospital, guilt overcame Mike and he told John he would pay \$35,000 for the Camaro, out of his personal college savings. Mike's 22 year old brother, Bill, who was visiting Mike and John in the hospital, did not want Mike to use all of his college fund to pay for John's car; so Bill offered to pay for the car by making \$1,000 monthly payments to John until \$25,000 was paid. John then said he would accept \$10,000 from Mike and he would also accept \$1,000 monthly installments from Bill until an additional \$25,000 was paid for a total of \$35,000. No paperwork was done. No insurance was available for damages to the Camaro.

The hospital wants Mike to pay for his medical bills. John wants Mike and Bill to pay for his car. An insurance representative calls Mike at the hospital and offers him the \$25,000 policy limit for his injuries and medical bills and Mike accepts over the phone. The insurance company calls back and reneges saying because Mike is a minor he cannot enforce the settlement.

You are contacted by the parents of Mike and Bill who want to know whether it makes any difference that Mike is underage and whether anyone in the family owes anything. Please discuss the following questions posed by the parents:

1. Is either Mike or Bill legally liable under their offers to pay for the damage to John's Camaro? Why or why not? (Note: Do not address auto insurance issue here).
2. Is Mike or his parents liable for unpaid medical bills? Why or why not? (Assume there is no other medical coverage.)
3. Is the insurance company liable to Mike on the \$25,000 settlement? Why or why not?

QUESTION #4

Joe owned Tracts A and B, which lay side by side. Tract A abutted a highway. Tract A was between Tract B and the highway, and Tract B had no access to a road. Bill farmed Tract B for Joe under a lease, and, as necessary drove his truck and farm equipment across Tract A until tracks were worn on Tract A.

Bill purchased Tract B from Joe and continued to drive across Tract A as he had. Sometimes, Bill would drive his truck on the tracks onto Tract A to deliver farm supplies to Joe for the convenience of Joe. This continued for five (5) years until Bill died. Bill's son inherited Tract B from Bill and continued to cross Tract A as his father had except that the equipment Bill's son operated made the tracks three (3) feet wider than previously made.

Seven (7) years after Bill had died Joe sold Tract A to George by General Warranty Deed. George immediately put a barricade across the passage way Bill's son used, but Bill's son drove around it.

Four (4) years after he purchased Tract A George asked you who has what rights in regard to Tracts A and B. What do you tell him and why?

Assume that during all events the people named above were legally competent and unmarried.

QUESTION #5

After several years of marriage, Husband and Wife, separate and file for divorce. Husband and Wife have two children born during this marriage. Husband, Wife and the two children all reside in the same county in Kentucky. With the entry of the Decree of Dissolution of Marriage, Husband and Wife are awarded joint custody of the two children, with equal timesharing between them.

1. One year after the entry of the Decree of Dissolution of Marriage, Wife files a motion to modify custody of the children from joint custody to Wife being awarded sole custody. Discuss the standard of proof necessary for Wife to be a successful in her modification of custody?

2. Discuss the effect on the standard of proof necessary for Wife to be successful in her motion to modify custody of the children from joint custody to sole custody, if the motion to modify is filed more than two years after entry of the Decree of Dissolution of Marriage?

3. Is a motion to modify custody required if Husband or Wife wants to relocate the children's residence out of state? Please explain why or why not.

4. What is the effect of modification of a custody decree if the modification occurs while Husband or Wife is an active duty member of the United States Armed Forces, deployed outside of the United States?

QUESTION #6

On a snowy January afternoon, four friends set out across the ice to the “Special Snow Days Sale” at the local mall. Gamma, the driver, lets Alpha and Beta off at different mall entries. Delta goes with Gamma to park the car and enter the mall separately.

Alpha starts in an entrance to the mall that is covered by 4 inches or so of fresh snow. Alpha sees the snow, but decides to attempt to cross it to enter the mall. She slips on the snow and breaks her wrist.

Beta attempts to enter the mall by means of an entry where mall employees have attempted to remove the snow, but have left a very thin skim of invisible ice on the walk. Beta slips and falls, breaking his ankle.

In the meantime, Gamma and Delta have successfully entered the mall. Gamma goes to pick up lunch for all four at the Texas Rodeo restaurant, where big barrels of in-shell peanuts are available for patrons to snack on; they are encouraged to throw the shells on the floor, and Gamma has done that many times in the past, and acknowledges that they were a hazard. On this occasion, however, Gamma slips on discarded shells on the floor, and breaks a rib.

Delta has entered a food store where she proceeds through the salad oil aisle, and slips on an invisible puddle of some unknown liquid, of unknown origin, present for an indeterminate amount of time. Delta slips on the oil and breaks her tailbone.

1. Does Alpha have a cause of action against the mall? Explain.
2. Does Beta have a cause of action against the mall? Explain.
3. Does Gamma have a cause of action against the restaurant? Explain.
4. Does Delta have a cause of action against the food store? Explain.