



**PROPERTY (A2 & C1)**  
*Practice Question 1*

*This is the Cover Page.*

- *Don't read the Question that follows until you're ready to do this Practice Question.*
- *You should also print out and read, before you start, all of the Instructions on the [Practice Questions page](#).*
- *Before you read the Question and begin to respond to it, review the materials in Section [I.A.1](#) of the Syllabus. You will use the materials in Section [I.A.1](#) to answer the Question. In writing your answer, you need not refer to materials in Sections I.A.2 or I.A.3.*
- *You should spend 60 minutes total:*
  - *15-20 minutes reading the Question and writing an outline of your answer*
  - *40-45 minutes writing your answer in essay form.*
- *This Question is open book.*
  - *In writing your outline and answer, you may consult any materials in written or digital form you wish. In other words, you may look at materials assigned or provided in this course this year, including the Casebook, as well as your own notes or briefs, and commercial outlines, whether in printed form or on your laptop.*
  - *You may not confer or work with anyone else while you write your outline and answer, or while you write your comments on the answer you are given to comment on, nor in preparation for doing either. Your outline and answer, and your comments, should represent your own efforts and no one else's.*
  - *You may not use any form of generative AI to produce your outline and answer. You may not use any form of generative AI to edit or revise your outline and answer.*



*The following events take place in the hypothetical U.S. state of Cania, which generally follows the common law. Its courts look to judicial decisions elsewhere for guidance, but are not bound by them.*

Aisha owns a large tomato farm in Cania. For five weeks each summer and fall, Aisha hires migrant workers to pick tomatoes. The migrant workers live in cabins on her land during their employment. They have Sundays off. Most have no cars; the few that do sometimes give rides to others. Public transportation is spotty, but there is a Sunday afternoon public bus that runs to and from a small downtown area five miles away. Most have cell phones, and Aisha offers free WiFi, which works much of the time.

In August 2024, the Cania Department of Health (DOH) issues a Mosquito Alert concerning the dengue virus. It warns that a small but concerning number of dengue cases have been found in Cania, in the same county in which Aisha's farm is located. Dengue is spread through mosquito bites.

Most people who are infected with dengue have no symptoms or relatively mild if unpleasant ones (including fever, headache, muscle pain, nausea, and rashes) for a week or so. But about 1 in 20 infected persons develop severe dengue, which is life-threatening. Second or subsequent infections are even more likely to produce severe dengue. There is no specific treatment for it; the main focus is on relieving symptoms.

Dengue is of concern to many migrant workers, who spend most of the day out in the fields. Unlike some species of mosquitoes, the Aedes mosquitoes that carry the dengue virus bite during the day as well as at night. Many migrant workers are concerned that the added cost of having to put mosquito repellent on all the time will be hard to afford.

Rexial has developed a new mosquito repellent called NoSkito. Rexial says it has sponsored studies showing that the active ingredient in NoSkito – lemon eucalyptus oil with thyme – is more effective and safer than repellents using DEET. DEET is the main ingredient in most mosquito repellents in the U.S. The federal Environmental Protection Agency (EPA) says that normal use of DEET is safe for adults and children, and repels mosquitoes. The EPA has not done studies on NoSkito, since it's so new.

Rexial wants to send representatives to a number of migrant farms in Cania once a week for five weeks to provide NoSkito to migrant workers for free. At each visit Rexial will offer to test the migrant workers for dengue. If infection rates are low, Rexial hopes the publicity will boost sales of NoSkito nationwide. Rexial representatives will be accompanied by members of a local charity, who will provide tips that medical experts recommend for outdoor work, like wearing long-sleeved shirts that are tucked into long pants, wearing socks along with shoes, and wearing a hat.

Several other migrant farm owners agree to Rexial's proposal, but Aisha rejects Rexial's offer to visit her farm Sunday mornings for five weeks. "My employees can buy Off!<sup>®</sup> at my farm commissary," she says. "Off! has DEET, a perfectly good repellent," she adds. "Yes it's expensive, but if my employees think mosquito repellent is important, they shouldn't begrudge the expense. I'm proud of what I pay them. Plus they can get dengue advice on the internet. This farm is mine. I get to decide who comes onto it. I don't have to answer to anyone about my decisions on that."

Rexial brings suit against Aisha in Cania state court. It seeks a ruling that it has the right to enter her property once a week on Sunday mornings for five weeks, accompanied by the charity members, in order to offer free NoSkito, dengue testing, and dengue prevention advice to her workers. (The charity members are not seeking any access independent from Rexial's plan.)

You are a law clerk to the judge. "Interesting case," she remarks. "We've never had one just like it in Cania. It raises some pretty fundamental questions about property." She asks you to write a memo analyzing the issues the court should take into account. "Make sure you discuss the arguments on both sides and provide your recommendations as to how I should rule," she adds.

*Write the outline and memo as indicated in the Instructions on the Practice Question 1 page.*