

## Sample Skills Exam Question and Answer

Answer the following question. You will be graded on your ability to identify which facts are relevant and state them concisely and accurately; identify the threshold or main legal issue and any secondary issue(s); identify the relevant legal authority and apply it to the facts and draw persuasive logical conclusions. Do not rely on any other authority or your knowledge of the law; only use what is given in the question. Your answer should be in the form of a memorandum to the attorney including the following: Facts/Issue(s), Discussion/Analysis, and Conclusion. Pay attention to clarity, composition, conciseness, and organization.

### MEMORANDUM

TO: Chris Garcia, Paralegal

FROM: Cynthia Chan, Attorney

DATE:

RE: Animal Attack at Sacks Assisted Living for Lions (SALL)

After years of research and training, Beverly and Dan Sacks turned their cattle ranch into a wild animal sanctuary dedicated to giving quality care to elderly and sick lions from reputable circuses and zoos around the United States. Located in the California Sierra Nevada foothills, the sanctuary is known as "Sacks Assisted Living for Lions" (SALL).

The sanctuary houses over 50 lions that roam freely in a highly-secured, fenced, natural habitat. Eligible animals include circus lions which have reached the age of retirement, typically 18, or lions that are physically unable to perform the circus tricks mastered at a young age. About one-third of the lions have come from zoos. Some of the lions are blind or suffering from illnesses associated with old age.

SALL is open to visitors for a fee during daylight business hours, Thursday through Sunday. Trained staff members drive visitors in protected vehicles, either an SUV or minivan, through the 200-acre sanctuary, stopping along the way to allow the visitors to enjoy unobstructed views of the lions resting or rolling in the grass and playing together. Although the lions spend most of their time resting, they are inquisitive and social by nature. Occasionally, a few lions may approach the tour vehicles and rub against the bumpers like big house cats. The lions have used their claws to scratch the rubberized, plastic bumpers, requiring replacement. During the ten years that SALL has been open, no lion has ever attacked a visitor or staff member. However, under statutory and case law, the lions are still considered "wild animals" and should be considered "wild animals" for your analysis.

Neighbors Greg Thompson and Sam, his adult son, were often paying visitors to the sanctuary. After several years, the Sacks let Greg and Sam visit the sanctuary during business hours without paying. Sometimes Greg or Sam even drove the tour vehicles among the lions without Beverly or Dan along, often with paying visitors in the vehicle. Sam also has helped with upkeep of the vehicles including replacing the animal-damaged bumpers. Sam liked to entertain visitors with stories about the lions and their prior days as circus performers.

Late one night, Sam and a friend James were drinking beer and watching television. Sam started talking about the lions. James had never been to the sanctuary and wanted to see the lions. Knowing that the lions can be active during the night hours, Sam offered to take James over to the sanctuary. Sam told James that they could enter SALL at night without Beverly or Dan ever knowing, but they would have to scale a 12-foot fence to gain access.

Sam and James scaled the fence. Sam knew where the tour vehicle keys were kept, and he took one to drive around the sanctuary. Beverly and Dan saw the lights of the tour vehicle from the ranch house but assumed that it was one of the hired staff who came in the evening several times a week to check on the lions' water supply and food.

Sam and James drove into the sanctuary. Some of the lions came up to the vehicle and started rubbing against the door and bumper. In an attempt to impress his friend with how well he knew the animals, Sam stopped the vehicle and got out. He reached over and tried to feed an elderly lioness. In the process, he stepped on the lion's foot, causing the lion to bite Sam twice on the forearm. When Sam screamed, James panicked. James slid over to the driver's seat and started the vehicle. He quickly pulled Sam and his mangled arm back into the tour vehicle, but in the process the lion clawed James's arm.

James managed to drive the tour vehicle to the ranch house where Beverly and Dan promptly called 911. An ambulance arrived shortly and transported Sam and James to a local hospital. James was treated for his injuries and released from the hospital after several hours. Sam was treated and admitted to the hospital. He was later transferred to another hospital and underwent several surgeries during a ten-day hospital stay.

Our clients, Beverly and Dan Sacks, wonder if Sam and James would succeed in a lawsuit against SALL. Please review the statutes relating to these potential claims and prepare a memorandum to me, evaluating the legal aspects and stating whether Sam and James would succeed in a lawsuit against SALL.

## **Selected Statutes:**

**Section 10-01.** For the purposes of this Chapter, Sections 10-02 to 20-10, a wild animal is a living creature that is not a plant, that has not been tamed or domesticated, is traditionally thought of as being wild, and in its natural state or running unrestrained in a natural environment.

**Section 10-02.** A wildlife refuge, also called a wildlife sanctuary, may be a naturally-occurring sanctuary, such as an island, that provides protection for species from hunting, predation or competition, or it may refer to a protected area, a geographic territory within which wildlife is protected. Such wildlife refuges are generally officially designated territories, created by government legislation or licensing, although the land itself may be publicly or privately owned.

**Section 10-03.** The Federal Wildlife Service is responsible for designating, licensing, and regulating wildlife sanctuaries, including wildlife refuges and territories or areas.

**Section 10-04.** It is a federal crime for any person to house, feed, or care for wild animals without a federal license issued by the Federal Wildlife Service.

**Section 20-01.** The possessor or owner of a wild animal is subject to liability for the resulting harm caused by the wild animal even though it would not have occurred but for the unexpected, innocent, negligent, or reckless conduct of a third person.

**Section 20-04.** Notwithstanding section 20-01, if a person injured by a wild animal voluntarily subjected himself to the wild animal, with knowledge of the danger, that person may not recover compensation for his injuries from the animal's owner.

**Section 20-08.** Notwithstanding section 20-01, a trespasser, one who has no permission from the landowner to come on the land, may not recover for damages resulting from injuries when the trespasser comes willingly onto the land and suffers injuries as a result of those things he or she knows or should have reasonably known to exist on the land.

## SAMPLE ANSWER

### MEMORANDUM

TO: Cynthia Chan, Attorney

FROM: Chris Garcia, Paralegal

DATE:

Re: Animal Attack at Sacks Assisted Living for Lions (SALL)

You have asked me to review certain statutes and determine if Sam and James would be able to succeed in a lawsuit for their injuries against our clients Beverly and Dan Sacks.

**FACTS:** Our clients Beverly and Dan Sacks operate and own the Sacks Assisted Living for Lions (SALL), a 200 acre wild animal sanctuary for elderly lions retired from circuses and zoos. The sanctuary is a natural habitat where the lions roam freely, but the area is secured and fenced. For a fee, visitors are given tours of the sanctuary and the lions in protected tour vehicles during daylight business hours.

Sam Thompson, a neighbor of the Sacks, has many times toured the sanctuary, has assisted in giving tours, and has helped with repairs to vehicles caused by the clawing of the animals. One night, Sam was entertaining his friend James and suggested they go over to the sanctuary to see the lions. Sam assured James that he could get on the property without Beverly and Dan being aware of their presence, but they had to get over a 12-foot fence.

Sam and James went onto the property and took a tour vehicle. Sam stopped the vehicle near a lion and got out. He stepped on the lion's foot. The lion attacked and injured Sam. James was also injured when he came to Sam's assistance. Dan and Beverly Sacks are asking if SALL could be liable for the injuries to Sam and James caused by their lion.

#### ISSUES:

Main Issue: Is SALL liable for injuries to Sam and James?

Secondary Issue A: Did Sam voluntarily subject himself to the wild animal with knowledge of the dangers, thus preventing him from recovering damages?

Secondary Issue B: Are Sam and James considered trespassers, and thus both precluded from recovering damages?

**DISCUSSION:** Under statutory and case law it is settled that lions are considered wild animals. Under Section 20-01 the Sacks, as possessors of wild animals, would be liable for the resulting harm that occurred to Sam and James.

Although the Sacks are liable under Section 20-01, the actions of Sam and James will create a complete defense. Sam was very much familiar with the wild animals and the sanctuary. He

had visited the sanctuary a number of times, assisted in tours, and helped with repairs to tour vehicles caused by the clawing of lions. He also knew what the lions could do when provoked. Under Section 20-04 if a person "...injured by a wild animal, voluntarily subjects himself...with the knowledge of the danger... [he]...may not recover compensation for his injuries." Sam knew the dangers and voluntarily chose to leave the vehicle, which led to the attack and the injuries.

In addition, both Sam and James are considered trespassers who have no permission to come on to the land under Section 20-08. That provision states: that a "...trespasser...comes willingly onto land and suffers injuries..." from things he "...knows or should have reasonably known to exist..." may not thus recover compensation. Sam and James did not ask permission to come onto the land. Furthermore, Sam assured James that Beverly and Dan would not know they were taking a night tour and that they would have to scale a 12-foot fence to gain access to the property. Sam and James were well-aware they were coming onto property with wild animals without permission of the owners.

#### CONCLUSION:

Under Section 20-01 Beverly and Dan Sacks, who own and operate SALL, are liable for injuries caused by the wild animals they keep. However, under the facts presented, the Sacks have a complete defense because of the actions of Sam and James. Sam is precluded from recovering since he knowingly encountered the potential danger of being near a wild animal under Section 20-04 and he was a trespasser with knowledge of the wild animals under Section 20-08. Although James had not been to the sanctuary before, he is precluded from recovery under Section 20-08 as a trespasser with knowledge of the existence of wild animals.