

QUESTION ONE

Pat, taking a walk one day, looked on Devin's parcel of land and observed an abandoned water well near the property line. It was an old fashioned well with low stone walls and a dipping bucket attached to a rope which was affixed to a crank. The stone walls came up only 4 feet above the ground, in violation of a local ordinance requiring that all wells have walls that are at least 5 feet above the ground. Pat was concerned the well might be dangerous, particularly since small children from the local middle school walked by it every day. Pat entered onto Devin's parcel to examine the well more closely and determine its safety. When he peered down into it Pat lost his balance and fell into the well, landing in three feet of cold water 22 feet down. The splash alerted Devin and he came out the front door of his house. "Help I'm trapped," Pat yelled from the bottom of the well. Devin was angry about Pat's presence on his land and yelled down to him: "I'm not going to help you sir, as you have no right to be on my land." Devin walked back into the house. Pat kept yelling and after thirty minutes a passerby heard him and lowered the bucket to him. Pat used the bucket rope to climb out of the well. When he emerged Devin came out of his house again and Pat picked up Devin's nearby garden gnome and hurled it at Devin, who ducked to avoid it, causing the gnome to strike a vase on Devin's porch. The gnome was shattered into pieces and destroyed. The vase was scratched. Two weeks later Pat developed pneumonia, and a doctor told him it was likely caused by standing in three feet of cold water for thirty minutes.

What potential causes of action does Pat have against Devin, and what are Devin's potential defenses? Discuss. If there is a negligence cause of action discussed, do not discuss any defenses to negligence.

What potential causes of action does Devin have against Pat, and what are Pat's potential defenses? Discuss. If there is a negligence cause of action discussed, do not discuss any defenses to negligence.

QUESTION TWO

Pica owned a painting worth \$25.00 that she loved because her grandmother painted it. One day a passer-by, Xavier, saw the painting through Pica's front room window and offered \$500.00 for it. Pica agreed to sell the painting and Xavier wrote Pica a \$500.00 check Xavier knew was drawn on a closed account with no money in it. When Pica took the check to the bank and learned that it was worthless, she was devastated. A week later Pica went to the home of a new neighbor, Doby, who was having a holiday gathering for the folks on his block. Pica was amazed to see the painting hanging in Doby's front room. "That's my painting and I'm taking it now," Pica said. As she moved toward it to take it off the wall Doby grabbed her by the arms and said "Oh no you don't, I just bought that painting for \$35.00 yesterday at the flea market." As Doby steered Pica away from the painting, Pica jerked free and pushed Doby and he stumbled and fell, banging his head against the wall and knocking the painting off the wall and into the fireplace where a yule log blazed. The painting was immediately consumed by the fire. Doby got up and forced Pica down the stairs and into his basement, where he closed and locked the door. "Let her out of there," other guests at the gathering yelled at Doby. "No, I'm holding Pica there until the police arrive," Doby said, dialing 911. The police arrived thirty minutes later and released Pica from the basement. As Doby listened, Pica told the police how terrible she had felt about selling the beloved painting and then being ripped off by Xavier. After interviewing everyone the officers broke up the party and advised Doby and Pica that the District Attorney's Office would decide whether charges against anyone would be filed. Over the next several days Doby telephoned Pica repeatedly, calling her a "greedy little pig" for selling the painting and then ruining his holiday gathering. These calls caused Pica to develop insomnia.

What potential causes of action does Pica have against Doby, and what are Doby's potential defenses? Discuss. If there is a negligence cause of action discussed, do not discuss any defenses to negligence.

What potential causes of action does Doby have against Pica, and what are Pica's potential defenses? Discuss. If there is a negligence cause of action discussed, do not discuss any defenses to negligence.