

1)

===== Start of Answer #1 (1929 words) =====

Lisa's Estate v. Bill

*First rate  
essay; congratulations  
Dave*

Is Bill negligently liable for Lisa's death?

Negligence is a breach of a legal duty owed which is the actual and proximate cause of a harm.

Did Bill owe a legal duty to Lisa, a trespasser?

Despite being a trespasser on Bill's property, Bill will likely be found to owe a legal duty to Lisa. Generally, trespassers are not owed a duty of care by the landowner; however, Bill's pool is likely to be considered an attractive nuisance. Bill was aware that many teenagers were entering his property to make use of his pond/pool. While he constructed a fence to prevent this, they continued to enter his property. Following, Bill made no more reasonable efforts to prevent or make safe the nuisance.

*recall  
5  
+1*

Additionally, even if such a legal duty cannot be established as set forth above, Bill will also be found to have a duty owed to Lisa once he is aware of her injury. Again, generally a duty is not owed to trespassers, but a duty is imposed should the owner be aware of a injured person on his property. Thereafter, he must do what is reasonable to make sure that persons receives proper care, etc.

Did Bill breach his duty to Lisa?

Again, Bill made no further obvious, reasonable or otherwise, to prevent trespassers from entering his pond. Thus, Bill breached his duty by not ensuring the local teens could no longer enter the pond, etc.

Also, Bill breached his other duty in refusing to allow paramedics onto to assist Lisa

regarding her accident. This is grossly negligent on his part, as he should do everything reasonable at this point to assist Lisa having known of her injury, or, in the least, not stop others from helping. Thus, Bill breached both duties that could be suggested.

Is Bill the actual and proximate cause of Lisa's death?

But for Bill not having tried more reasonably to prevent teens from entering his property and but for Bill preventing others from assisting, Lisa would not have originally been injured or thereafter died as a result of her injury. Thus, Bill is one causes in fact for Lisa's death.

As for proximate cause, there are many intervening causes which contribute to Lisa's death, such as Al's electrifying Bill's pool, etc.; however, such events do not become supervening causes so to break the causal chain. Even had Al not electrified the pool, Lisa would be severely injured and still possibly die as a result of her injuries. Thus, Bill is also the proximate-cause, despite other intervening causes.

Bill may argue contributory negligence, as to Lisa's death. The burden of proof will shift to Bill should this argument be made. Bill may then show that others, aside from himself (such as Al, Lisa's friend, etc.) were contributorily negligent. Following, damages may be apportioned by the jury as to each defendant's percentage of negligence which caused Lisa's death.

As for damages, Lisa's estate may try to recover medical expenses, etc., using available survival statutes, while her immediate family (probable parents in her case), may recover from Bill using wrongful death as a basis, for which to receive money for loss of time with their daughter, etc.

Al v. Bill

Is the swamp created by Bill's renovating a private nuisance to Al?

Private Nuisance is the either reckless, intentional or negligent interference with another's right to enjoyment of their property.

(4) Bill's renovating created a large swamp in Al's yard. This obviously interferes with Al's enjoyment, which is evident from his resulting actions. Bill can sue for damages as to his loss of enjoyment from his land, repairs, etc., or seek an injunction. Bill recklessly contributed to this interference by way of his renovation, for which he was also warned may cause issues with neighbors. Thus, Bill would be liable to Al for his nuisance.

Bill v. Al

Is Al liable to Bill for trespass to chattels and trespass to land?

Trespass to chattels is the intentional interference with the personal property of another.

Trespass to land is the intentional interference with someone's property interests.

Al, when discovering the nuisance of a swamp, retaliated by electrifying Bill's pond, which killed his fish. Such an intentional act which causes obvious harm of killing fish, would constitute a trespass to chattels. Thus, Al is liable to Bill for killing his fish.

*commission*

(3) Additionally, in throwing over the wires to electrify the pond, Al also committed a trespass to land. Even though Al did cross himself, such an interference with another's property whereby one throws something into someone's yard, etc., will constitute a trespass to land. Thus, Al is also liable for trespass to land.

Bill v. Police Department

Is the police department liable to Bill for intentional damage to his door?

Trespass to land and chattels, defined supra.

Bill may try to sue the police department for the destruction to his security gate, etc. However, the police department will use the authority of law as a defense and also likely public necessity. Generally, police officers may use reasonable force to prevent a crime, or wrong. Also, public necessity is a complete defense whereby someone is allowed to trespass onto the property of another, etc., should they do so for the benefit of the public. In this case, preventing a death would likely fall under both of these defenses (preventing a wrong and saving a life--benefit to the public). If these defenses fail, they can also argue justification and leave it up to the jury to determine whether or not their actions were justifiable under the circumstances.

Thus, the Police Department is not liable for any damages to Bill's property.

Two red-haired persons v. Officer Sally and Police Department

Did Officer Sally wrongfully batter and falsely imprison the two red-haired persons, and possibly also infringe upon the constitutional rights of the same based on their hair color?

False imprisonment is the intentional physical restraint of another's liberty.

1983 Statutes allow for persons to recover should their constitutional rights be abridged by a person, who acts under the guise of government law, etc. to infringe upon their rights.

Battery is an intentional wrongful or offensive touching.

Officer Sally approached the two red-haired persons, believing that their red hair mean they were evil in some way. Based on this critique of the persons, she proceeds to detain them. After asking why they were being arrested, she needlessly tasers them both and has them transported to jail.

✓ Tazering people without good cause, as was done, would constitute a wrongful or offensive touching, even under the guise of legal authority. Additionally, wrongfully detaining persons without good cause or basis, also even under the guise of legal authority, would constitute false imprisonment.

8  
Officer Sally may argue authority of law as a defense; however, this defense false extremely short. The authority of law can only be called upon to prevent a felony or carryout an arrest warrant. The two red haired persons were arrested because of an unreasonable false belief of Sally. Thus, she cannot claim authority of law and is liable for her intentional torts.

Additionally, the police department may also be vicariously liable for the intentional torts of Sally through the doctrine of respondeat superior. So long as what Sally was doing was within furtherance of the police departments general goals and within the general scope of her employment (arresting persons for crimes, even if they are not actually crimes), it will also be liable--so long as they do not have immunity by law from suit.

Lastly, because Sally is using her position as a police officer to directly interfere, with the basis being they are evil because of their as red haired persons (gingers?), on the constitutional rights of a class of persons, she is also likely to be sued under 1983 Statutes. They need only prove their constitutional rights were taken away because of their class (being red-headed) by someone using authority of law to wrongfully do so. These things are evidenced from the aforementioned torts, etc. Thus, she is also liable

to them for violation of their constitutional rights.

Lisa's estate v. Al

Is Al liable for Lisa's death by way of battery?

Battery, supra.

Al, as already stated, intentionally electrocuted Bill's pond. The doctrine of transferred intent allows for a Plaintiff to transfer the Defendant's intent to commit one tort and have that intent apply to a related third party and tort, should a resulting harm occur.

4 It has already been shown that Bill is liable for trespass to chattels for his actions. His actions also caused a harmful touching as to Todd who falls on Lisa which results in the death of Lisa. Despite not intending for his actions to cause injury to any one persons, this is inconsequential. Al's mere intent to harm Bill's property and pond/fish is sufficient to leave him liable for the resulting harm to Lisa by way of the resulting battery to Todd, and Lisa.

Thus, when she and the paramedic are electrocuted, he is fully liable for her death based on this battery through transferred intent.

Additionally, her estate and her parents may also recover through survival statutes and wrongful death statutes, respectively.

Should this line of reasoning fail, Al could be found liable under a negligence action. But again, his actions are so intentional that this is probably unneeded, and he should be liable, at most, for the intentional torts caused by his intentional actions.

Paramedic Todd v. Al

Is Al liable for his battery to Todd?

Battery, supra.

3 ✓ Again, through transferred intent, Al is liable for the harm his trespass caused directly to Todd. Thus, Al is liable for battery.

Lisa's estate v. friend/student

Is Lisa's friend liable for negligently helping to save her?

Negligence, supra.

4 Generally one is not under a duty to assist in someone's rescue. However, Lisa's friend takes on this duty regardless and tries to give her CPR. This person, however, gives CPR incorrectly, which is evident by her broken ribs. Their actions are the but for cause of her broken ribs and punctured lungs and had they not given her bad CPR, her ribs may not have broke, etc.. Thus, they are the actual and proximate cause of this portion of the injury. The causal chain is not broke as to the punctured lung, etc. They are the only cause of this specific injury as to their actions in taking on the duty to rescue.

So long as this person's actions cannot be attributable in any way to her more serious injury (death), for example, by impeding the actual rescue by paramedics, they will only be liable to her estate for the broken ribs.

However, because she ultimately dies from impaired breathing, they may be further liable for her death for an indivisible injury. IF the facts show that the punctured lungs contribute to her death (being the actual cause), the only other issue is proximate cause. The supervening cause being Al's battery which causes Todd to fall on Lisa and

1 further impair her breathing. Whether or not an indivisible injury is created, which would establish joint and several liability, would be a finding for the jury. Alternatively, Lisa's friend can claim comparative negligence, whereby, the defense could show Al is more greatly liable, or possibly even entirely liable, for his intentional tort which became a supervening cause of the death.

Therefore, they are at least partially liable for the injury, which may be determined to be indivisible, which results in joint and several liability as to Al and the friend.



**Ann v. Zak: Libel**

Zak states that Ann's process for making wine is a complete fraud. In order to have defamation, there must be a false, defamatory statement (one that is offenses causes harm about another) and it must be communicated to a third person. Because the statement made by Zak was in a national magazine, it would be considered libel. Under libel, the defamation must be written word which as in a magazine it it published material. It was also sent to a large audience because it was considered a national magazine. It is also likely that the statements were false because the facts previously state that critics stated that her wine tasted better than noble wines all over the world. However under the NY times v. Sullivan rule, in order for a public figure to sue for defamation against a media defendant there must be actual malice. Actual malice is

---

5 that the defendant either knowingly or with reckless disregard of the falsity, makes the statement to induce harm to the plaintiff. Ann is a public figure, because she is gaining much publicity about her new method of wine making, and as a public figure it is important for the public to be able to discuss aspects of your trade. Therefore, because knowing what the wine actually tastes like is of public interest, Zak would have had to have actual malice in order to be liable for libel. He would have had to make the statement knowing that it was false or with reckless disregard of its falsity for a malicious reason.

*and so... (conclusion, please)*

### Zak v. Journalist: Libel

4 In turn, Zak may have an action in Libel against the Journalist (J). Because J made a statement about the background of Zak, but it was actually false, it was published in a national magazine and it was likely to harm Zak, J may be found liable for libel.

However again, because Zak is a public figure in that he is actively involved in the media (making statements about Ann) and is a wine maker himself, there again must be a proving of actual malice of the journalist in order for J to be found libel. Because due to the facts it appears as though J thought he was actually giving the facts of the right individual, unless his research methods were determined to be in reckless disregard of the truth (he did publish an article stating essential facts about the wrong individual) he would not be for liable for libel. These statements were false and due appear reckless, but there a gap in the recklessness of the falsity. It appears that J thought he was making true statements.

### Zak v. Journalist: negligent misrepresentation

1 If J is not found to liable for libel, he would be likely found liable for negligent misrepresentation. Negligent misrepresentation is the false misrepresentation of material fact, in which defendant expects people to rely, and they do in fact rely. Because this was a nationally published magazine and many people read the articles and they are likely to rely on the information they receive from the articles, it is likely that J would be

*a material fact*

found liable for negligent misrepresentation. He also may be found liable for any harm to the business of Zak after this representation. If he makes a statement rebutting his mistake, then it may lessen liability in the state of damages however he will still be responsible for the harm he caused due to his negligence.

### Ann v. Paul: False Light

Paul discovers that Ann's plastic funnel in her kit is not approved by the dept. of health. He then makes a press statement that the kit was unapproved possibly toxic materials. False light is a type of defamation where the actual statements made are not false, however they cast the plaintiff in a false light due to the way the facts are construed. Because these facts stated by Paul were not outright false, the facts do say that her product wasn't approved - however the way he stated the facts made her product appear much more dangerous than it was likely to be. Additionally the facts state that her product was only 4 days away from being approved, and if he also knew this additional information, it further proves that he made the statements in a way to trick the consumer into thinking the product was dangerous. Because the facts state that Ann's business was suffering from all the negative publicity, it is likely that there will also be damages that are found directly from these statements. Ann must be able to prove that the press by Paul caused detriment to her business and if she can prove that, in addition to the way he construed the facts, it is likely that he could be found liable for Ann's damages under the tort of false light.

### Norm v. <sup>Tall</sup>Ann: Interference with contract

Norm's groceries may have an action in suit against Ann found interference with contract. Ann told all of her members of the winemaker's association to stop selling to Norm's because he was also selling Ann's product. Interference with contractual relations is when there is an intentional interference of one party in the private contracts of the other parties which leads to the detriment of the parties involved in the contract. There also must be an additional unlawful act than just interfering with the ability to

contract. Although Ann is using her power as the head of the Association, the fact that she is telling her members to refuse to sell, is unlikely to satisfy the requirements of interference with contract. She appears to be dealing in general business and although sometimes causing unnecessary harm, it is the risk of doing business. Ann is not likely to be found liable.

### **Wine Drinkers v. Ted: Negligence**

2 Ted as one of Ann's wine kit makers had a duty to use reasonable care as any product competent person in his profession would to package the kits. When he ran out of stabilizing compound and opened a new box of contained names 1A, even though he was a non-English speaker he could be perhaps found for breach of duty. However it is not unreasonable for a any worker to replace one box of 1A items, with another box of 1A items. Although but for his packaging errors the wine drinker would not have suffered harm and it is foreseeable consequence of using the wrong chemicals that individuals may suffer harm, and there were in fact damages to the wine makers, the fact that Ted didn't act unreasonably ( unless the boxes were completely different shapes, or different colors or there was further writing somewhere) he would not be found liable for negligence.

### **Wine Drinkers v. Paul Battery**

2 Paul intentionally put N4R into the 1A bottles which battered the wine drinkers. Battery is the intentional unprivileged harmful or offensive touching of another. Because he placed the chemical in the bottles with the intent that it would actually cause some degree of harm, he would be found liable for battery to the people who drank the wine.

*a stroke*

### **Wine Drinkers v. Stella battery via respondent superior**

2 Stella recruited Paul to put the chemical in the wine and thus she would also be responsible for the battery under the doctrine of respondent superior. This states that

employers are liable for actions of their employees if in the course of their duties. Because she also intentionally wanted Paul to cause harm there would like be additional punitive damages added to her liability.

### **Ann v. Paul: Trespass to Chattel**

3 When Paul went and tampered with the box of chemicals he would be found liable for trespass to chattel. He unlawfully prohibited the rightful owner to possess the property. He also may have committed a conversion in that he permanently deprived the rightful owner of the use to the chemicals. Ann no longer knew what chemicals were which and the tampering with the chemicals caused additional harm. This was also intentional act because they wanted to harm Ann's business.

### **Ann negligence per se**

5 Negligence per se is negligence created by statute which states that to promote effective communication employees must be able to speak English. In order to be found liable under negligence per se, the statute must be aimed to protect a certain class of individuals, to which the harm is caused and the harm cause must be the same as that the statute was trying to prohibit. Although Ann's worker didn't speak Spanish and additionally there was a harm caused in her factory due to industrial errors, it is unlikely the error would have occurred but for the intentional actions of Paul and Stella. Ann's worker was working with the 1A box and went to replace it with another 1A box. He's inability to speak English had nothing to do with the harm that was caused. There was a gap in the causal connection between the inability to speak English and the harm that resulted. Therefore, it is unlikely that Ann would be found liable under negligence per se. This is the type of injury the statute was trying to avoid, however under the circumstances, English speaking was not a necessity and was not the true cause of the harm.

Paul and Stella joint and several liability for the harm to the wine drinkers.

TIME

=====  
===== End of Answer #1 =====

**END OF EXAM**

*Orderly & eloquent; nicely done.*

*Dave*