

1)

36/42

===== Start of Answer #1 (1337 words) =====

Ivan (Starz) v. Lucy (LiteSpeed): Defamation/ False Light/ Intereference with Advantageous Business

Defamation is a false statement published to a third party which is unprivileged and is harmful to thier reputation. When a defamatory statement is written it is called libel, when it is spoken it is called slander. Lucy's comments about the Chairiot are her opinion and as such would not qualify as actionable defamation. Her comments about Ivan were certainly meant to hurt the sale of the Chairiot when she was speaking to how uncomfortable the design was. The facts are ambiguous as to whether the statements about Ivan being a "former designer of torture devices" are true. Truth is an absolute defense to defamation. If these statements are false than the statement could qualify as defamatory, <sup>Possible</sup> Likely the tort here is false light as Lucy's statements about Ivan and his product were would cause a reasonable person to view him in a false light and cause damage to his reputation. False light is when statements may be true, but are misleading and cast the person in a negative light in the public eye. It appears as though Lucy, being a competitor, was trying to lure people away from the Chairiot, in which case she would also be liable for interference with advantageous business prospects for which Ivan could recover if he can prove that due to Lucy's statements, he suffered an economic loss. Since Ivan is a private plaintiff, but the matter is of public concern, the Gertz standard would apply and to recover actual damages, he would have to show at the least negligence or reckless disregard for the truth for the defamatory statements, however, the facts are amibuquous as to whether the statements made about him are true or false (see discussion supra.) Lucy is not a media defendant, so there is probably no relation to the news agencies wouldn't be held vicariously liable for Lucy as she is not an employee of theirs.

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if true then how a false sm takes more than bureau torture

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Pedestrian v. Ted: Negligence

Negligence is the breach of a duty which is the actual and proximate cause of the

damage. Ted owes a duty of reasonable to all persons not to cause injur or cause harm. Ted breached his duty of care when he negligently drove his modified vehicle passing cars, accelerating to beat red lights, and wearing headphones which impaired his ability to asses danger. Additionally, the facts indicate Ted heard the sirens indicating an emergency but turned up the music in his headphones, which may constitute gross negligence in the face of clear and present danger. But for Ted's modifications of the Chairiot, the vehicle read red traffic lights as green lights and propelled Ted through red lights which caused the firetruck to swerve and subsequently <sup>W/25 it speed, unduly</sup> kill the pedestrian. It was reasonably foreseeable that modifying and tampering with a vehicle's sensors would cause a collision which proximately caused the collision as well. Ted is both the actual and proximate cause of the collision. (5)

Pedestrian's estate v. Ted/ Firetruck (City): Wrongful Death/ Survival Statutes

Pedestrain's estate will have a cause of action against Ted for wrongful death in which they will recover loss of support and contributing expenses that decedent would have contributed to but for his wrongful death. Decendent will also be able to recover under any survival statutes for any causes of action he may have brought himself. Ted will argue that the firetruck was contributorily negligent, but as he was the proximate cause this will likely fail. The firetruck will argue that Ted had the last clear chance to move and purhaps have prevented the injury to pedestrian. (2)

The estate will seek damages from the city via the firetrucks actions, but they will likely esape liability via immunity. If the city was held vicariously liable under respondeat superior (employer liable for any torts employee commits during scope of employment- not liable for intentional torts unless in furtherance of employment) they would likely seek indemnification against the firetrucks since they were the ones who caused the actual harm. While Ted and the firetrucks are jointly and severally liable for pedestrian's death, given the chain of events, the estate will recover damages from Ted, including medical expenses, past and future pain and suffering, loss of consortium, etc. Because while the firetruck was the actual cause of pedestrian's death, this does not relieve Ted of his intial liability as he the proximate cause. Punitives recoverable only for intentional torts. (41) (41)

Intervening Casues:

There are a few intervening causes for which Ted will remain liable because they were all foreseeable consequences of his original tortious behavior. First, the collision with the imminent collision with the firetruck which cause it to serve and hit a pedestrain and kill them was a foreseeable result of Ted's negligence, and while he was not the actual cause of the pedestrain's death, he is the proximate cause. Second, the dispatcher sending an additional foretruck to the fire for which the origial firetruck was supposed to address (but couldn't because of the collision trying to avoid Ted) is reasonably foreseeable. It is reasonably foreseeable that another fire truck would be dispatched to attend a fire that the original firetruck never made it to.

②  
Ted  
has to  
be both  
& was

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Pedestrian's estate v. Starz: Strict Liability- Products Liability

Manufacturers of commercial products may be held strictly liable in tort for defective products that are released into the stream of commerce having a design defect, manufacturing defect, inadequate warnings, or breach of express warranty. Here there is no defect as Ted modified the product Chairiot.

③

Ted v. Jane: Assault/ Battery

Assault in the intentional placing of someone in reasonable apprehnsion of harmful or offesnive touching. If Ted was placed in reasonable apprehension of harmful or offesnive touchigh when Jane pursued him after he fled the scene of the accident, then Jane is liable for assault.

①

Battery is the intentional harmful or offensive touching of another without consent.

When Jane jerked Ted from his Chairiot she committed a battery.

no defense? ①

Dispatcher: Negligence (see supra)

Dispatcher had a duty to dispatch firetrucks to the correct location. Dispather breached her duty when she mistyped the location of the fire to the second firetruck. The facts are ambiguous as to whether ot not the second truck woudl have taken the same route, its too speculative to say whether the dispatcher under these circumstances was the

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actual or proximate cause here, so negligence would likely fail.

Firetruck #2 v. Gina: Negligence

Negligence (see supra)

Gina has a higher standard of care as an ambulance driver and will be held to a professional standard of care with as other competent individuals in her profession. The facts indicate that Gina was too distracted to notice the oncoming firetruck because Ted was being too combative and the dualing sirens were too loud for her to adequately assess which siren was which. The foregoing facts don't matter because these are all foreseeable obstacles within the purview of her profession and she should have received the appropriate training to overcome them and perform her duty despite them.

But for Gina's negligence, her ambulance would not have collided with the firetruck. It was reasonably foreseeable that being distracted while driving would cause a collision and as such, Gina is the proximate cause of the collision as well. Gina is both the actual and proximate cause of the collision with the firetruck. Gina will be held liable for general damages stemming from her negligence to those who were injured. While Ted is a contributing factor to the entire situation, <sup>not this second accident?</sup> in a comparative negligence jurisdiction, he will be held liable for his portion of the damages. Likely Gina will be immune as a municipal government agent (see discussion about vicarious liability infra).

Ted v. Gina & assistant: False Imprisonment

False imprisonment is the unlawful physical or psychological confinement of an individual against their will. The facts indicate that Ted was struggling against the restraints in the ambulance. Gina and her assistant will argue necessity for their safety and the safety of Ted. They will likely prevail.

only once they "imprisoned" him.

End of Q1

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2)

===== Start of Answer #2 (1235 words) =====

Farmer Ann (FA) v. Megabrand/A;

Nuisance: The non-trespassory interference with the enjoyment and use of ones property.

Was there a nuisance to FA by AI?

FA's enjoyment and use of her property was supplying the public with her organic vegetables. When Megabrand moved in the chemicals that their manger AI used would spill over into FA vegetables making them not organic anymore which decreased her sales. Megabrand was not intentional trespassing on her land or trying to ruin her veggied intentional but none the less the checmical that they used did interfere with her farm and she was not able to enjoy her property. Megabrand will argue that that is their way of doing business and they bought the land legally, and have a contract with nucorp to test their chemicals. This argument may hold up and Megbrand may not be liable for a private nuisance to FA. ~ *I think they were acting consciously w/ substantial certainti that inter world occ*

Was there any intentional interference with FA's business.

For interference with ones business the defenant must know of the business, take steps to interfere with conduct that is offenscie to a reasonable person. Here Megabrand knew of FA's business, or they should have known since they bought up the

land on 3 sides of her farm. FA brought the use of their toxic chemicals to them and they said they would continue the usage. FA sales declined because of this. Megabrand maybe liable for interference with FA business if FA can show that they intentionally interfered. The facts state that Megabrand was only using the chemicals because they were under contract with NuCorp and not using them to intentionally bring down FA business. Megabrand will most likely not be liable to FA from interfering with her business. *will argue*

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NuCorp (NC)/MegaBrand v. Nora (N)

Interference with a contract: Intentional interference with the contract and business of another.

There must be a knowledge of the contract in this case there is N knew about NC contract with Megabrand, there must be an intentional act done to interfere with the contract of the business which is highly offensive to a reasonable person and damages. The facts state that N knew about the contract and called NC and told them that Megabrand was using another companies chemicals. N knew this allegation to be false and did it any ways with the hopes that NuCorp would stop supplying Megabrand with the chemicals. If NC stopped sending megabrand the chemicals megabrand would be out millions of dollars because the contract would end. In this case NC found the claim to be false and didn't lose their business. Therefore N will not be liable for the interference with a business contract because there was no interference and no damage even though her conduct could be looked as being highly offensive to a reasonable person. *was some limited damage*

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FA v. Megabrand

Defamation: language which tends to adversely affect ones reputation. Can be spoken which is slander, or written which is libel.

In order to have a case for defamation there needs to be defamatory language, of or about the other party which is published to a third party, which adversely affects that party's reputation. Here there was a false statement that could have an adverse effect on FA's reputation which is pulling a gun. In order for there to be a slander case FA will need to show special damages unless the statement is regarding a crime of moral turpitude, the unchastity of a woman, how one conducts business, or disease. If pointing a pistol would be considered a crime of moral turpitude then Megabrand will most likely be liable for slander against FA. It will most likely be left for the trier of fact to decide that. If it is not then Megabrand will not be held liable unless FA can show special damages.

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FA v. District Attorney (DA) *usually immune from suit*

malicious prosecution: prosecution of one which is done maliciously and false

The facts are silent on whether or not the DA knew these charges to be false, only shows that the DA was conscious of Megabrand's contributions. There is most likely no malicious prosecution. *But was dismissed early on. Suspicious?*

2

Megabrand v. Jim (J)

Will Megabrand have a suit under section 1983?



Under section 1983 one may bring suit against another when that person under the authority of the color of law violates another's right. Here under the color of state labor laws J who is in the Farm labor bureau claimed there was violations of the labor law to Megabrand and issued a stop work order, which stopped Megabrand's work for a month. The bureau ended by issuing a clarifying order which let Megabrand work again. Here it is implied that J made up the violations in order for Megabrand to have to stop working. This violated Megabrand's right to work. *conduct but not?* This violation was done by J who has authority to report these violations. Not only did J claim there was violations but he was not even

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*Not a civil right (yet)*

authorized to give a stop work order since only the actual bureau could do that. Based on the actions of J issuing a stop work order under the guise of state labor law violations Megabran can bring a section 1983 suit against J.

*(or suit for Abuse of Process)*

Jill v. FA

Trespass to land: Intentional entry onto the property of another without consent or privilege

The fire FA set went onto the land of Jill. If this was done intentionally the fire would be seen as an extension of FA and she would be liable for trespass to land. FA however intended to burn her shed and commit suicide, she did not intend to use the fire to go on jills property. FA will not be liable to trespass to land.

②

Was FA negligent in the starting of the fire?

Negligence: The failure to not expose one to an unreasonable injury and to not exercise due caution in activities.

⑤

In order for there to be negligence there must be a duty to act, a breach of that duty, cause of the breach resulting in damages

Was a duty owed to Jill?

FA had a general duty not to subject Jill to any unreasonable harm.

Was there a breach of this duty?

FA breached this duty when she set a fire to her shed and ran into it never to be seen again. she intended to kill herself but in the process burnt down the house and barn of Jill. Even though FA is more than likely dead her estate will be liable for this breach.



Was the breach the cause of the house and barn burning down?

The facts state that the fire spread to Jill's property burning her house and shed. The fire set by FA is the direct cause of Jill's house and shed being burned. The damage is the buildings being consumed by the fire.

Is FA liable for negligence per se?

*proof of statute established*  
Negligence per se is negligence resulting from the violation of a statute. The Duty and breach are implied casuation and damages are still needed to be shown. In order for negligence per se is the legislators intention, the class of persons protected by the statute, injury resulting. Here FA did in fact violate the statute. However the statute was not in place to protect the property of others it is in place to maintain air quality. Since Jill is not in part of the protected class FA estate will not be libale under negligence per se to Jill.

(4)

*very nice*

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===== End of Answer #2 =====  
**END OF EXAM**