

Empire College School of Law
Professor Stogner
Torts Mid-term Fall 2009
Thursday, December 17, 2009

Question One – 1 Hour

Edith owned a little grocery store. Denny was shopping in Edith's store when he decided to use the restroom. Denny walked into the stockroom in back and located a small bathroom with its door partially open. He peeked in and then entered, closing the door behind him. Moments later Edith, unaware Denny was in the bathroom, walked in without knocking. Denny and Edith were both surprised and scared by the encounter and when Edith screamed Denny jumped back, striking his head on a glass encased portrait of Jon Gosselin which was hanging on the wall. The glass shattered, cutting Denny's head. As Denny bounced off the wall and fell toward Edith she thought Denny was going to punch or choke her, so Edith stuck Denny with her cane. Denny saw the blow coming but could do nothing to avoid it. As Denny fell, Edith dropped her cane and fled to the front of the store. Enraged, Denny grabbed the cane and broke it over his knee.

What are Denny's causes of action against Edith and what are Edith's defenses, if any?
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Question Two – 1 Hour

Pete woke up with a sore throat and fever, and decided to go to Dr. Deever's office for a quick check up before continuing on to his employment, which was delivery of the town's afternoon newspaper, the Daily Projectile. Pete drove to Dr. Deever's office, checked in with the receptionist and described his symptoms. The receptionist spoke with Dr. Deever briefly and told Pete to take a seat in the waiting room, which was crowded. Thirty minutes later Pete told the receptionist he had to leave and she told him to stay. Pete insisted he had to work and as he turned to go the receptionist yelled something behind her. Dr. Deever stuck his head out the door. "You're not going anywhere Pete. Stay right here. You may have swine flu. Let me put it to you this way: you leave here now and you may not have a job by the end of the day, get it?" Pet sat down again. Thirty minutes later he got up and announced he had to get to work. As he headed for the door Dr. Deever yelled at Pete in front of the other patients: "You are the Typhoid Mary of the swine flu. You are going to infect the whole town and I'll make sure you regret this to your dying day." Dr. Deever's words shocked, distressed and embarrassed Pete. Still feeling sick, Pete began his paper route. He tossed the Daily Projectile out his passenger window and on to the lawns of his customers as he drove slowly through the neighborhood, even though a city ordinance prohibited the throwing of any object from a moving car. On one of the streets of his route Pete was surprised to see Dr. Deever getting out of a car in the driveway of the nicest house on the street. Pete carelessly tossed the newspaper harder than normal and was alarmed to see it break the front window of Dr. Deever's house. As Pete drove off up the street, Dr. Deever pulled a scalpel from his satchel and waved it menacingly from his driveway. Pet saw the display but kept on going.

What are Pete's causes of action against Dr. Deever and what are Dr. Deever's defenses, if any?

What are Dr. Deever's causes of action against Pete and what are Pete's defenses, if any?