

QUESTION ONE

Pita v. Dolf

Negligence

--key issue proximate cause: potential unforeseeable type of damage
re bird bite and possibly bird death

Negligence per se

--key issue actual cause: would impact have been the same if defendant was
Driving the speed limit (5 mph slower)?

NO INTENT. Because the defendant did not act for the purpose of rear ending Pita's car, and because he did not know with a substantial certainty that the collision would occur, the rear end collision was not an intentional tort. Period. Thus, no battery, trespass to chattel, or conversion.

Battery

--when Dolf threw the kit he did so for the purpose of striking Pita's vehicle, a likely trespass to chattel; thus doctrine of transferred intent.

Assault

--if apprehension of battery

Dolf v. Pita

Battery

--Pita hit his kit from his hand, an extension of his person

Trespass to chattel

--kit damaged

Conversion

--kit "ruined"

QUESTION TWO

Bob v. Don

Trespass to land

- going onto flooded lawn
- mistake of fact no defense

Assault

- trying to throw part of statue
- no present apparent ability so no assault
- no way were words an assault

Intentional Infliction of Emotional Distress

- piglet words not outrageous enough

Battery

- defense of consent
- split of authority concerning whether defendant can raise defense of
Consent when consented to act is illegal

Assault if no consent and apprehension

Negligence

- weed killer on back patio
- was Bob a foreseeable plaintiff in the zone of danger?
- unlikely storm was big enough to be act of God constituting
Proximate cause issue (superseding intervening act)

Don v. Bob

Negligence

- wood falling due to storm

Battery

- issues see above

Assault

- see above