

ISSUE OUTLINE
QUESTION 1

Jen v. Phil Trespass to Property (define) Although the common law rule of property being owned from the bowels of the earth to the top of the sky has been much modified, Phil's sunshade extended directly over Jen's property and just feet away, which would likely be held to be an act of trespass. 3 Points

Jen v. Phil Trespass to Property Phil's unprivileged entry onto Jen's property via the board bridge to her roof was a separate, second intentional act of trespass. 3 Points

Lucy v. Phil Battery (define) Phil's intentional trespass against Jen is transformed into a battery against Lucy by the magical application of the transferred intent doctrine. 4 Points

Damaged car owners v. Lucy or Phil Negligence (define) as to Lucy or Trespass to Chattel (define) as to Phil If Lucy, though suddenly blinded, breached a duty of care by not braking immediately, before her crashed into cars moving legally through the intersection, she would be liable if that breach was the actual and proximate cause of the damage. However, if Lucy's inability to properly control the car was excusable as reasonable conduct given her seared retinas, then Phil's trespass to property would continue to incur liability for these damages, again via transferred intent. 4 Points

Officers v. Phil Assault (define) Phil not liable for assault, though the officers might have taken his threats, coming from the person they believed was the source of the dangerous beam of light, as presenting an imminent battery. Blinded Phil could not have known—and therefore could not have intended—that a reasonable person would feel threatened by his verbal threats shouted from the roof, as he didn't know the beam was concurrently doing injury. Fine point: Firefighters Rule in some jurisdictions would preclude cause of action by officers injured in line of duty. 2 Points

Phil v. Officer Tina and Officer Brett Trespass Both officer's intentional trespass likely to be seen as privileged, both by authority of law and self-defense (Tina)/ defense of others (Brett) Note that Brett's entry not excused by Rescue Doctrine, as Brett didn't act reasonably in his attempt. 4 Points

Officer Tina v. Phil Neg Uncertain from these facts if Phil was negligent in allowing his attack dogs to be outside in residential area, even behind a fence. How high was fence? Warnings prominently posted? Ultimately a question of reasonable conduct, as always. If not negligent re dog safety, Phil still liable to Tina for battery via transferred intent. 3 Points

Officer Tina v. Officer Brett Neg In his well-intentioned enthusiasm, novice officer Brett appears to have breached the duty of care by crashing his car through the fence with Tina in his path, thus becoming an actual cause and the proximate cause of the injuries attributable to Tina's crush injuries, but not those caused by the dog-ravaging. 3 Points

Bullet-injured Bystander v. Officer Brett Neg Brett firing after the fleeing dogs and in the direction of innocent citizens appears to be a breach of the duty of care, and an actual cause of the injured bystander's damages. As there were no intervening acts to interrupt the chain of causation, Brett's wild shooting was the proximate cause as well. 3 Points

Fleeing Pedestrians injured by focused beam v. Phil/Bret Battery Phil likely to again be held liable, through transferred intent, for these injuries. Phil may claim the injuries arose because they were fleeing Brett's gunfire, but facts suggest they couldn't see the beam and could have likely encountered it whether fleeing or not. At best, Phil's claim would make Brett a joint tortfeasor sharing liability. 3 Points

Phil v. Officers Battery Under these facts, the shooting, a harmful touching, likely seen as privileged by doctrines of authority of law, self-defense, and defense of others. 3 Points

Owner of burned home v. Phil Trespass Transferred intent, again. 3 Points

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QUESTION 2

Slowly-moving crowd members v. Scotty Battery (define) Scotty's shoving may have been offensive or even harmful in physical intensity, but Scotty will effectively claim the evolving emergency threatening many lives should excuse his pushing others aside under the doctrine of necessity/justification. 2 points

Fun City/Lucy v. Adam Trespass to Chattel/Conversion Adam's unprivileged disabling of the emergency stop switch on the Vortex was a trespass to chattel. If evidence produced to prove that the disabled switch caused the bearings to melt and the machine to collapse, Adam will be liable for conversion of the machine. 4 points

Mindy v. Adam Battery Adam's violent measure to silence Mindy was an unexcused battery. Note that the facts indicate Mindy was unconscious when Adam locked her in the shed and was still unconscious when the shed was crushed by the collapsing Vortex, so no False Imprisonment would lie. 4 points

Mindy v. Fun City Negligence Adam would likely become a joint tortfeasor with Fun City/Lucy when his battery put Mindy beneath the machine which collapsed due to Fun City/Lucy's negligence (see below). If expert testimony could establish that Mindy would have died from the initial battery even if the Vortex had not crushed her, Adam would be solely liable for her death. 5 points

Injured riders and bystanders v. Fun City/Lucy Negligence (define) Lucy had actual notice from engineer Scotty of the risk to human life posed by her policy of allowing the Vortex to run with twice the number of riders Scotty designed the Vortex to support. Her decision to proceed was a breach of her duty not to subject others to the unreasonable risk of harm, most particularly her customers using an instrumentality under her control. Lucy's breach was an actual ("but for") cause of the injuries and, because the harm flowed from the breach in a natural and unbroken sequence, it will be deemed the proximate cause of the injuries as well.

Lucy likely to attempt to share the liability (and negative press coverage) for the disaster with intentional tortfeasor Adam by claiming his disabling of the stop switch contributed to the extent of the harm. While the facts are not conclusive on this point, Scotty ripped the power cord from the machine as soon as he saw the switch was inoperative, so Adam's trespass to chattel re the switch did not apparently contribute to the number or extent of the plaintiff's injuries and would not therefore be an intervening or contributing cause. Because the machine had already begun to hurl riders into the crowd before Scotty approached the switch, even if Adam's meddling did contribute it would have affected only those plaintiffs injured after Scotty approached the switch, so at most Fun City/Lucy would share liability with Adam. 9 points

While plaintiffs would have little trouble proving negligence, some of their attorneys may try to invoke the doctrine of **Negligence Per Se** by a showing that Fun City—through its employee/agent Scotty--violated the statute. To do so, plaintiffs would have to prove the statute was intended to protect the class of persons to which they belonged (yes) and that the statute was designed to prevent the type of harm that actually occurred (yes). They would also still have to show that the act which violated the statute—Scotty using uncertified person Jill to operate the ride—was the actual and proximate cause of their injuries; they cannot, as Jill did exactly as she was told to do by engineer Scotty, “but it was far too late.” Additionally, Scotty’s decision to recruit the nearest person to help in this situation would likely be seen as reasonable given the circumstances. 8 points

Dead patient v. Norm & Fun City/Lucy Negligence Dr. Norm’s drunken decision to treat a child for eyes irritated by a spilled soft drink instead of the plaintiff’s serious head injury was clearly a breach of his professional duty, which expert testimony could establish was either a contributing factor to her death (in which case Norm would share liability with Fun City, as a successive tortfeasor) or that the plaintiff would have died regardless (in which case Fun City would alone be liable.) 6 points