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===== Start of Answer #1 (1076 words) =====

Pita v. Dee

Did Dee (D) commit tortious assault on Pita (P) when she "charged" her?

Tortious assault is defined as intentionally causing apprehension of an imminent battery of another without consent or legal privilege. Battery is defined as the intentional harmful or offensive touching of another without consent or legal privilege. Intentional is defined at common law as 1) actions taken to bring about a desired goal or 2) knowing with a substantial certainty a known result will occur because of the conduct.

In the instant case, D "charged" Pita in such a way as to cause her alarm and causing her to "jump back." At common law, apprehension does not equate to fear though P was clearly "...afraid..." only that the plaintiff was aware that a battery was imminent.

The apprehension must be reasonable under the circumstances, and further, the defendant must have the present ability to carry out the battery. The facts show that P was aware of D's presence, had the present ability to batter her, and D knew or should have known with a substantial certainty P was going to be placed in a mode of apprehension. Therefore, D likely committed assault.

D, however, will likely attempt to claim a privilege of attempting to recover her chattel. Generally, business owners are allowed to detain suspects with a reasonable degree of force necessary in order to conduct an investigation. Under the circumstances, D's approach may be reasonable, however, any attempt to pursue of person suspected of conversion must be "fresh," and further, must be done in such a way as to not breach the peace.

Did D commit tortious false imprisonment when she locked P inside her store?

False Imprisonment is defined as the intentional restriction of liberty of another with

threat, force, or coercion. Those suffering an act of false imprisonment must be aware of the imprisonment, or be harmed by it. Theoretically, there are no geographic restrictions in such a case. Further, in some jurisdictions, the plaintiff must utilize any reasonable means of escape if any are available.

Here, P was aware of her inability to leave the store. She both shook and eventually broke the window to affect a means of escape. P's liberty was physically restricted by the locked door and by D's s threats of "...not letting [her] leave [the] store." Therefore, D likely imprisoned P without consent or legal privilege.

D may again attempt to evoke the privilege of chattel recovery, but as mentioned above, her conduct may have exceeded the scope of her privilege as it was neither reasonable nor her pursuit "fresh."

Dee v. Pita

Did P commit assault and battery when she hit D over the head?

See Assault, supra. See Battery, supra. The facts show P caused apprehension in D of an imminent battery, had the present ability to commit the battery, and intentionally threw an object toward D with the specific intention of hitting her - which in fact the item did. Therefore P likely committed tortious assault and battery.

However, P could raise a plausible self-defense privilege. Common law allows for the use of force reasonable given the circumstances to defend one's person and/or property. It is not necessary to await a battery before such a privilege can be invoked. Reasonably presuming herself to be under assault and without an apparent means of escape, P did what was necessary to protect herself from an imminent attack. Despite D's calming words, regardless of their sincerity, the self-defense privilege stands even in the face of a mistake of fact given the circumstances of the situation. Therefore, P will not be found liable for tortious assault and battery.

Handwritten notes:
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motorists and vulnerable pedestrians. There is an argument for D that the statute at issue was designed to protect private property as well . This would be a question of law settled by the trier of fact.

P will attempt to again evoke an emergency privilege, supra. Arguing that she be held to the standard of a reasonably prudent person operating under emergency conditions. IF the pro se action were allowed to move forward P might not be allowed to argue this vital privilege. As mentioned, the pro se statute would presume P had a duty of care *and* breached this duty regardless of the mitigating circumstances

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

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===== Start of Answer #2 (1625 words) =====

Ping (P) v. Dyson (D)

A Tort is a civil wrong, other than breach of contract) for the breach of which, the law provided a remedy.

Tort liability must be established in court by a preponderance of the evidence.

Negligence

Negligence is where a person owes a duty of due care to prevent risk of harm to foreseeable Plaintiffs. It contains the conjunctively required elements of: duty, breach, causation and damages.

Duty

Duty is the standard of care required from a reasonable person to protect others from undue risk of harm.

A duty is owed to others outside a person's own premises to exercise reasonable inspection of trees. D should have inspected his tree for overhanging branches and fruit that would fall into the neighbor's yard, especially as he was on notice that a dog lived there and was aware the persimmons could make the dog sick.

When D failed to inspect his trees, his actions amounted to nonfeasance. A duty arose to D, as a landowner, to exercise reasonable inspection, even though the tree was a natural condition.

Breach

Breach is when a person fails to reach the standard, and falls below the standard of a reasonable person in performing their duties. Breach is proven by direct evidence, circumstantial evidence, or sometimes through the doctrine of Res Ipsa Loquitur (which will raise an inference of negligence).

D clearly breached his duty to conduct a reasonable inspection of his tree when the tree grew to the point it overhung the fence and dropped fruit in P's yard.

Res Ipsa will not apply as there is direct evidence of the breach.

Causation

Causation is required to be proven in two ways. Actual and proximate causes must both be proven and shown to be unbroken.

Actual Cause

But for D's failure to inspect, there would not have been damage to P's dog. D was the actual cause of the damage to D's dog.

Proximate cause

D will be proven to be the proximate cause of the damage to P's dog unless it can be shown that there was an act that severed his liability by breaking the causal chain. This can be accomplished in 4 ways. If there was a problem of remoteness, an unforeseeable type of damage according to wagon mound jurisdictions, a superseding /intervening cause, or or public policy reason.

The failure to inspect the tree and trim it, was not remote in time or distance to the dog eating a persimmon.

It is not unforeseeable that damage to the dog will happen if it eats a persimmon because the tree grew without pruning; however this "foreseeability" test only applies to wagon mound jurisdictions, if they were in a Polemis jurisdiction the court would look to see if the damages were directly linked to the negligent act. In this case, both the Wagon Mound and Polemis jurisdictions would be satisfied.

There were no superseding intervening acts (act of God, Criminal Act of third party or other unforeseeable act) that cut off the causal chain.

Finally, there is no public policy reason to limit the liability to D in this situation.

Supporting the privacy of neighbors by respecting property boundaries, gives the public a good indication of where their responsibilities regarding property lie.

D may raise a defense of contributory negligence. If he is in one of the 5 states that adhere to this doctrine, he will have a successful defense if he can prove that although he was negligent in failing to prune the tree properly, P was also negligent in failing to inspect his yard after he had seen the tree branch growing over the fence.

However, if D and P reside in a jurisdiction that allows comparative fault, the parties will be able to argue for apportioning the fault. If it is a pure system, P will recover regardless of his fault. However, if it is a modified system and D can prove P was 50% or more at fault, D will escape liability.

Damages

Damages are a required element of negligence, and the facts show that P's dog (a chattel) was injured such that he received veterinary care. This is expensive even if it was a simple office visit, so D can potentially be liable in compensatory (special) damages for the medical costs and other out of pocket expenses to cure the dog. P may also be able to recover general damages for the pain and suffering of seeing his dog hurt, etc.

The facts say that P was only interested in having his neighbor trim the tree, so P may have a right to sue, but is not required to sue D.

Intent

Intent is doing a volitional act on purpose, or knowing with a substantial certainty that a result will occur.

when D purposefully dropped the persimmons into P's yard, he was intentionally acting and may be liable for some intentional torts.

Trespass to Land (T2L)

T2L is when an intentional entry onto the land of another. In this case, when D purposefully shook the persimmons into P's yard, knowing P did not want them there, he was entered P's land by instrumentality, impermissibly, and will be liable for T2L. No damages need to be proven to be found liable for this tort. The only defense D may have is possibly self-defense. A dog barking can drive someone insane. However, dogs have the freedom to bark and D does not have the ability to damage the dog in order to give himself peace of mind, that is excessive force in self-defense.

When you commit an intentional tort, you are liable for all the resulting injuries that flow from it. When P slipped on the persimmon and hurt himself, this flowed directly from D placing the fruit in the yard and D will be liable for the injury to P's hip.

Battery

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

When D dropped the persimmon into the yard, he intended to trespass to the land and chattel of P. he was attempting to harm the dog, but instead harmed P when P slipped on the persimmon. The doctrine of transferred intent allows intent to transfer between torts and although D did not intent to batter P, he will be successfully held liable for the battery through the doctrine of transferred intent.

D v. P

Battery supra.

T2L supra.

Intent supra.

When P grabbed the fruit and threw it at the poodle, he intended to hit the dog, intended to cross over the land of D when he threw it (D owns the airspace also) and will be liable to D, for the dog's injury. A battery is a harmful or offensive touching to a person, he will not be liable for the battery of the dog.

Trespass to land

Trespass to chattel (T2C)

T2C is the intentional interference with, impairment of or injury to the right of another to possess chattel. A dog, while precious to some, is still a mere chattel. When P injured the dog by throwing the persimmon, he impaired the right of D to enjoy the dog and caused infection and death. The impairment and medical care needed were short of substantial deprivation until the dog died.

Conversion

Conversion is the substantial interference with or destruction to a person's right to possess chattel.

When the poodle died as a result of the infection from the persimmon injury, P eliminated the ability of D to enjoy the companionship, etc. of the poodle. It was a complete dispossession or destruction of the poodle when it died. P will be liable for the value of the poodle at the time and place of conversion. P may argue that the poodle was very sick right before it died, and therefore he is only liable for the replacement value of a sick dog. he may also attempt to argue defense of property as he was returning the persimmon to the rightful owner, since it was a danger to his property. he may argue that He was justified in protecting his property from invasion of the harmful fruit. however, he could have disposed of the fruit in his trash, or returned it to the neighbor. The facts state he saw the dog and threw the persimmon at her. D may argue for punitive damages as it was very mean und unecessary to throw the fruit at the dog. I am not sure that this would rise to the level of maliciousness required for a punitive award, but it could be argued.

Intentional Infliction of Emotional Distress (IIOED)

IIOED is when a person acts in an outrageous way intending to severely distress another, and the other party does indeed suffer severe emotional distress.

The facts do not say what reaction D had to his dog dying, but it can be assumed that the care required for the injury and resulting death was traumatic. If D did indeed suffer severe emotional distress, he would be able to assert a cause of action for IIOED.

However, it is a long shot as the intent to conversion cannot transfer to IIOED, so you would have to establish a separate intent for the purposeful death of the dog and the facts merely say that P was angry from falling and meant to hurt the dog, it does not appear that he held independent intent to severely distress the master, D by his actions.

D should be able to recover compensatory damages for the medical costs of the dog, the replacement value of the poodle, and pain and suffering for the death. The general and special damages will have to be proven by evidence, possibly including expert testimony as to the degree of the injuries.