

Thoroughly analyzed & well presented; good job!

30/38

1)

Jen v. Phil

Trespass to land

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Trespass to land is the intentional, unprivileged intrusion upon the land of another.

When Phil had a canopy constructed that drooped over onto Jen's property, he intruded upon her land without privilege. He will be liable for trespass to her land.

Assault.

①

Assault is an intentional act which places another in apprehension of an imminent harmful or offensive touching. The defendant must have the present ability to inflict the battery.

When Phil yelled to Jen from his window that his lawyer would "stall her for years," the threat was not imminent and did not refer to anything resembling a harmful or offensive touching. Phil will not be liable for battery.

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Trespass to land (defined supra)

When Phil put a board from his window to Jen's roof, then walked across the plank over to her roof, he intruded upon her land intentionally and without consent. He will be liable for trespass to her land.

Trespass to chattel.

①

Trespass to chattel results from an intentional act that diminishes the quality, condition, or value of the property of another.

When Phil struck the edge of Jen's mirror, while stumbling after being blinded from the hot beam, he did not do so intentionally. He will not be liable for trespass to chattel.

Phil v. Jen

Negligence

Negligence is the breach of a duty owed to a plaintiff that is the actual and proximate cause of plaintiff's damages.

Jen had a duty to anyone around her house and property to avoid conduct that would pose an unreasonable risk of harm. The mirror she had erected on her roof, as evidenced by the damage done to Phil's hand, was an extremely dangerous fixture. Usually, land owners do not owe a duty to trespassers, but a court will likely find that the extremely dangerous nature of the mirror constituted a breach of Jen's duty to Phil, even though he was a trespasser (discussed supra). It was probably not foreseeable that Phil would climb across a board over to her roof, but because a simple change in the angle of the mirror was capable of causing drastic injury and damage, the mirror posed an unreasonable risk of harm.

③

Was Jen's breach the actual cause of Phil's injuries?

if a trespasser trespass w/ it.

Actual cause, or cause-in-fact, is determined by the 'but for' test. "But for" Jen's erection of the dangerous mirror, Phil would not have injured his hand.

Proximate cause occurs when a defendant's act sets off an unbroken sequence of events that causes damage to a plaintiff. An intervening cause is one set off after the defendant's

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original act or conduct, and a superseding event is one that cuts off the chain of events, due to its magnitude and severity of consequences. A court will find that Phil's intentional tort of trespass to Jen's land is an intervening cause. Phil will be found to have some comparative negligence in the burning of his own hand. For this reason, Jen will only be partially liable for the burns.

not superseding?

Lucy v. Jen and Phil

Negligence is defined supra.

③

Jen breached her duty by erecting the mirror. 'But for' this breach, Phil would not have knocked the mirror so that it blinded Lucy. Jen's negligence is the actual cause of Lucy's blindness on the road.

Was Phil's bumping the mirror so that it aimed the beam into the street foreseeable? As discussed, probably not. But a court would likely find it foreseeable that the mirror might shift its angle by some cause. Phil's bumping of the mirror while trespassing onto Jen's land, and attempting to spray paint the mirror will be an intervening cause, and along with Jen's negligence, both an actual *and* proximate cause. Jen and Phil will be held jointly and severally liable for injuries Lucy sustained.

Police v. Phil

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Assault is defined supra.

When Phil was staggering around the rooftop, screaming threats, the Police, would likely not have been in apprehension of any offensive touching from Phil, as he was blinded and on a roof. A reasonable person would not be in apprehension. Phil is not liable for assault.

Police v. Phil and Jen

Negligence is defined supra

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When the officer's shirt burst into flames, it was a result of both Jen and Phil's negligence, described supra. They will be jointly and severally liable for the damage to his shirt, and any injury he sustained.

Phil v. Tina

Trespass to land is defined supra

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When Tina jumped over Phil's fence into his backyard, she did so without privilege or consent, but Tina will assert the defense of emergency. This defense will hold in court, as a reasonable police officer, under similar circumstances, would enter a backyard in order to try to control the dangerous situation. Tina will not be liable for trespassing onto Phil's land.

Phil v. Brett

Conversion

Conversion is an intentional act which causes total or very significant interference with another's chattel.

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Brett, "inspired" by the sudden emergency, for some reason thought it appropriate to intentionally drive into Phil's fence (perhaps to save Tina?). A court would certainly not consider this a reasonable measure in light of the circumstances. Brett may argue he did so

Tina being eaten didn't warrant crushing a fence??

due to the emergency, or had a legal privilege as a member of law enforcement, but this will not stand. Brett will be liable for conversion of Phil's fence, assuming the fence was destroyed by the car.

Tina v. Brett

Negligence is defined supra

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Brett, in a very unreasonable attempt to, presumably, help Tina, ran his car into Phil's fence. As a police officer, Brett was under an enhanced duty to exercise prudence in avoiding exposing those around him to unreasonable risk of harm. Brett did not intentionally trap Tina between the bumper and the garage door, but he did so in a breach of his duty by taking grossly unreasonable measures.

But for Brett crashing through the fence, Tina would not have suffered serious internal injuries. It was foreseeable that crashing through the fence would expose Tina to unreasonable risk of being harmed. Brett's negligence was the actual and proximate cause of Tina's injuries.

Brett further breached a duty when he ignored Tina's moans, and decided not to help her. When a person is aware that his actions caused injury to another, it becomes his duty to attempt to help or rescue the injured.

Bystander v. Brett

Battery is the harmful or offensive touching of another.

3 41
Brett fired at Phil's fleeing dogs, but struck a bystander. Although Brett did not intend to shoot the bystander, he did intend to shoot Phil's dogs. By the doctrine of transferred intent, although Brett's bullets were intended for the dogs, they constitute a battery when they struck the bystander. Brett may assert the defense of defense of others, because the dogs may have attacked someone, unless it was reasonable that someone would be presently hurt by the dogs, a court will not find it reasonable for Brett to have been shooting at them.

good
However, this may mitigate Brett's actions to negligence, defined above. In that case, Brett's actions will found to have been the actual and proximate causes of the bystanders injury, and Brett will be liable.

owner of nearby home v. Jen and Phil

Jen negligence and Phil's intentional tort are discussed supra.

2
The police officers shot and killed Phil. Although in retrospect this was excessive in light of the true circumstances, the police were probably justified in doing so, as the facts say multiple officers were shooting at him. They will validly assert the defense they were justified in shooting him in order to protect others, etc. This was when Phil knocked the beam toward the neighbor's house, catching it on fire, but it would have been foreseeable that the beam would be knocked toward the house from the activity that was caused by Jen's negligence and Phil's trespass to her land. Jen and Phil will be jointly liable for damage to the neighbor's home.

Phil's estate v. Police

Negligence is defined supra. ?

As discussed immediately supra, the officers that shot Phil on the roof

End of Q.1

Articulate & well reasoned analysis - 29/30 first rate.

2)

crowd v. Scotty

2

Battery is harmful or offensive touching of another.

when Scotty pushed his way through the crowd, this may have been offensive. But people should expect a certain level of pushing and shoving when at a crowded amusement park, as part of natural, human contact. If a court decides Scotty's pushing was unreasonable, he will be liable for battery, but as he likely didn't cause any actual damage, he will be liable for nominal damages.

those injured v. Adam

Battery

Battery is supra.

3

Battery may accomplish the harmful or offensive touching through the use of an instrumentality. By turning off the stop button, Adam intended to physically harm others. The Vortex ride was his instrumentality. But Adam's intentional tort here was only part of the cause of the injuries (discussed further below). The facts say some patrons had already been thrown and injured from the ride. A court will need to determine the level to which Adam's shutting off the switch contributed to the injuries sustained. For those, Adam will found to be at least partially liable.

those injured v. Scotty / Fun City

Negligence Per Se

Negligence per se is the breach of a duty owed by statute that was designed to protect a specific class of people from a specific harm.

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State Health Statute 168 prohibits any amusement park ride to be operated by someone unlicensed to do so. When Scotty had a teenager operate the ride's brakes, he breached a duty owed by the statute. But the facts say it was already "far too late," and riders were already being flung out of the ride. This means Scotty's breach could not have been the cause. Although Scotty breached a duty, the breach still must be the actual and proximate cause of injuries. Scotty is not liable for negligence per se OR simple negligence, as the cause would still not be from any breach of Scotty's.

Mindy v. Adam

Battery is defined supra

False imprisonment

False imprisonment is the restriction of the physical liberty of another through force, threat, or duress.

When Adam hit Mindy in the head with a tool, he did so intentionally, and it was clearly harmful and offensive, as it knocked Mindy out. He is liable for this battery.

4

It would seem that he also committed false imprisonment of Mindy by dragging her to and locking her in the storage area. However, false imprisonment requires that the plaintiff be aware of the physical restriction. Because Mindy was unconscious, she could not have been aware of the situation. Adam will not be liable for false imprisonment.

Those injured v. Lucy

Negligence is defined supra.

By Scotty, designer of the Vortex, informing Lucy that the ride was unsafe with so many people, Lucy had constructive notice of a possibly dangerous situation with the ride. This created a heightened sense of duty for Lucy, considering she was the proprietor of an amusement park, where the possibility of danger is increased. Also, as invitees of Lucy's business, patrons have a legally special relationship with Lucy. She has a duty to these patrons to exercise a heightened level of care.

6

Despite the constructive notice, Lucy approved the ride to run with double the advised number of people. This is a clear breach of her heightened duty. The facts seem to suggest that most of the damage had been done by the time Scotty even discovered Adam had turned off the emergency switch. It's likely a court will find that the injuries were the actual and proximate cause of Lucy's breach of duty...

Result

But for Lucy giving the go ahead to run the ride with too many people, injuries would not have occurred. Her breach is the actual cause. It was foreseeable that running the ride against the vehement protests of her chief engineer would cause "catastrophe" as Scotty predicted. Her breach is also the proximate cause, *as intervening acts intrude on*

Chain of causation

Mindy v. Lucy

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Negligence is supra, and Lucy's breach of duty is supra.

As explained, Lucy clearly breached her duty. Operator Mindy was at the park, and in the proximity of the dangerous rides, and therefore owed a duty by her employer Lucy. The ride's crashing onto the storage shed was actually and proximately caused by Lucy's breach. Lucy will be (at least partially) liable for Mindy's skull injury.

Patient
Mindy v. Norm

Negligence is supra.

Doctors are under a heightened duty to provide a standard of care for patients. Being drunk at work, with not much sleep from the bachelor party, as Norm was, exposes his patients to an unreasonable risk of harm. It is a breach of his duty as a doctor. He owed a duty to Mindy to at least provide an average level of care, which he couldn't, as he was still a bit drunk. As a result of his breach, he treated a child with a significantly less dire malady than Mindy, first. A court will certainly find this a breach of his duty.

6

But a court may find it difficult to determine whether Mindy's death was due to her lack of care, or the ride that crashed as a result of Lucy's negligence, or Adam's intentional tort which rendered Mindy unconscious. Depending on the courts determination, these 3 parties will found to have contributed to Mindy's injuries and death, and will be held jointly and severally liable.

END OF EXAM