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===== Start of Answer #1 (1960 words) =====

Albertson v. Chip

Is Chip liable in trespass to land for boarding Albertson's boat?

Trespass to land is the intentional, unauthorized entry onto the land of another.

Here, the boat was owned by Albertson. There are no facts to support a conclusion that Chip had Albertson's consent (either express or implied) to board the boat. Therefore, his entry was unauthorized. Chip's intent must only be the intent to enter, which he did in fact do.

Therefore, Chip will be liable to Albertson in Trespass to Land, and must pay damages to harm done to Albertson's boat (the scuff marks left by Chip's shoes).

Chip might be able to argue that Albertson's boat is not land, and instead it is a chattel. If a boat is considered land because it is used essentially as a floating habitat to simulate land while on the sea, and was moored (attached) at the time to the land itself, making it an extension of that land, then Chip will be liable in trespass to land. If however, a boat is a chattel, then he will still be liable for trespass to chattel (infra).

Is Chip liable in Trespass to Chattel for taking the life jackets?

Trespass to Chattels is one who without consensual or other privilege to do so uses or otherwise intentionally intermeddles with the chattel that is in possession of another, is liable in trespass to such person if:

- a. The chattel is impaired as to its quality, condition, or value; or
- b. The possessor is deprived of the chattel's use for a substantial period of time; or
- c. Harm thereby comes to the possessor or some person or thing in which the possessor has a legally protected interest.

Here, Chip was on Albertson's boat without his consent. Chip took the lifejackets from Albertson's boat without Albertson's consent.

Therefore, Chip will be liable in Trespass to Chattel for the deprivation of Albertson's chattel under either (a) (if the lifejackets are impaired) or (b) above.

Chip will also be liable in Trespass to Chattel for the scuff marks if the boat is considered a chattel and not land. If the boat is chattel, chip's scuff marks impaired the condition of the boat, and Albertson will be able to recover damages.

Is Chip liable in Conversion for taking the life jackets?

Conversion is an intentional exercise of dominion or control over chattel which so seriously interferes with the right of another to control it, that the actor may justly be required to pay the other the full value of the chattel.

Here, Chip absconded with two life jackets, completely depriving the owner of their use. There are no facts to support an inference that Chip ever intended to return the life jackets.

If Chip does not return the life jackets (or if they were so impaired to render them useless), then he will be liable in Conversion to Albertson.

Therefore, Chip will likely be liable for Conversion of the life jackets.

Chip v. Anne

Was Anne negligent in not cleaning up her throw up?

Negligence is behavior that creates an unreasonable risk of harm to a foreseeable plaintiff. Elements of negligence are duty, a breach of that duty, causation (actual and proximate), and damages.

Here, Anne owed a duty to behave as a reasonable person under same or similar circumstances. It can be argued that a reasonable person, after regaining composure, would seek to remedy the situation that they themselves caused--in this case, the vomit on the ground. Anne breached that duty when she failed to either clean it up herself, seek another to help, or even to warn the rest of the seagoers of its existence.

Anne also owes a duty to anyone she puts in a position of peril. Anne may have also breached that duty, as there are no facts to suggest that Anne attempted to help Chip.

As to causation, it can be said that but-for Anne's failure to clean up the vomit, Chip would not have slipped and fell, despite the ship's contribution in its pitching against a wave. There are no facts to suggest other seagoers fell as a result of the pitching boat, so this lends further credibility to the argument that Anne's failure to clean up the vomit was the only cause of Chip's resulting injury.

Proximate cause can cut off the chain of causation where the type of harm is too remote, or the type of injury unforeseeable, or where there is a superseding intervening cause of the injury, or finally, where public policy would choose to limit liability.

Here, the type of harm is not too remote—people tend to slip on slick surfaces. The type of injury is not unforeseeable—when people fall, there is a high risk of an injury. Anne may try to argue that the pitching of the ship was the superseding intervening cause, but this will argument will fail because, again, no other whale watchers slipped as a result of the boat's pitching.

There are no public policy advantages to preventing liability in cases where defendant's negligently cause a surface to become slick.

Damages will be calculated according to Chip's medical costs, including any subsequent or ongoing treatment required to heal the injury.

Therefore, Anne will be found liable for negligence.

Chip v. Ned

Is Ned liable for Assaulting Chip?

Assault is an intentional act which creates an apprehension of an imminent harmful or offensive touching of another person when defendant has the present apparent ability to carry it out. Mere words are not enough, there must be something in the way of action.

Here, Ned offered to try to relocate Chip's arm. While this offer may create an apprehension of an

imminent touching, and Chip's reaction clearly demonstrates that the touching would have been harmful or offensive to him, and Ned may have had the present apparent ability to carry it out, there will still not be liable to assault.

Ned's offer consisted words alone, and there are no facts to suggest Ned took any action toward Ned beyond the offer itself.

very good!

Therefore, Ned will not be liable for Assault to Chip.

Is Ned liable for intentional infliction of emotional distress?

Intentional Infliction of Emotional Distress is any intentional or reckless outrageous act directed at plaintiff, or knowingly done in plaintiff's presence which causes severe emotional distress.

Here, Ned simply offered to help Chip. Ned's offer did cause chip emotional distress, as is evidenced by his "going ballistic," but this was not reckless or outrageous enough reasonably cause severe emotional distress. Ned also did not act with a purpose to produce the consequence of Chip's going ballistic, so Ned had no intent.

Therefore, Ned will not be liable for intentional infliction of emotional distress.

Ned v. Chip

Is Chip liable for Assaulting Ned?

Assault is an intentional act which creates an apprehension of an imminent harmful or offensive touching of another person when defendant has the present apparent ability to carry it out. Mere words are not enough, there must be something in the way of action.

Here, fearing Ned's offer to relocate Chip's shoulder, Chip threw a bucket at Ned. Ned apprehended the bucket hitting him (which would clearly be harmful or offensive, if not both), and Ned moved to avoid it. Chip had the present apparent ability to carry it out, which was demonstrated by Ned's having needed to move to avoid being hit by it.

Therefore, Chip will be liable to Ned for Assault.

Chip v. Skipper

Is the Skipper liable for Falsely Imprisoning Chip?

False Imprisonment is the intentional restraint of the physical liberties of another, by duress, threat, or force. The person must be aware of the restraint, or harmed by it.

Here, the Skipper ordered Chip to go below deck and stay there until the boat docked. Chip grudgingly accepted—but he was not forced to go. Even if Chip subjectively believes that the Skipper forced him to go, Chip was not prevented from leaving, because there are no facts to support that he was prevented from leaving the below deck area. If there is a clear means of escape, then there is no false imprisonment. Finally, 10 minutes of self-detention with a clear exit hardly constitutes false imprisonment.

Therefore, the Skipper will not be liable for falsely imprisoning Chip.

Even if Chip succeeded in proving this claim, the Skipper would likely enjoy the defense of Authority of Law, or Justification.

Was the Skipper negligent in handling the ship, causing Chip to fall and injure his shoulder?

Negligence, *supra*.

Here, the boat pitched and Chip fell. As discussed *supra*, the actual cause of Chip's tumble was Anne's failure to remove vomit, or warn others of the vomit's existence. Furthermore, the Skipper breached no duty when the boat pitched—it's implicit when boarding a boat that the sea may become rough, and the boat may pitch. Therefore, the skipper probably breached no duty of care owed to Chip.

Therefore, the Skipper will likely not be liable in Negligence for the pitching of the boat.

However, there are facts to support that becoming sick on the boat was a common occurrence. If so, then the skipper may have had at least constructive notice that people were prone to throw up on the boat's floor. If the Skipper had constructive notice, then he is in the same position as a shopkeeper who knows that milk or other liquids are likely to spill, and has a duty to look out for such occurrences, and remedy them in a timely manner to help reduce the risk of injury.

Therefore, it's likely that the Skipper did breach a duty to employ a system that would either warn people to watch out for slippery surfaces, or at least walk the deck occasionally to look for conditions caused by its invitees.

It can be said that but-for the failure to employ a method of watching for hazardous conditions, Chip would not have fallen.

Furthermore, the Skipper's failure to take action was the proximate cause of Chip's injury, as it was not remote, and it was entirely foreseeable, as it was a "common occurrence on the boat."

Therefore, the Skipper will be liable in negligence for injuries sustained by Chip as a result of failing to either warn or employ a system to help prevent known hazardous conditions with a high risk of occurrence.

Skipper v. Chip

Is Chip liable in trespass to chattels for the bucket?

Trespass to Chattels is one who without consensual or other privilege to do so uses or otherwise intentionally intermeddles with the chattel that is in possession of another, is liable in trespass to such person if:

- a. The chattel is impaired as to its quality, condition, or value; or
- b. The possessor is deprived of the chattel's use for a substantial period of time; or
- c. Harm thereby comes to the possessor or some person or thing in which the possessor has a legally protected interest.

Here, Chip threw the bucket overboard and it was lost at sea. This act was not consented to by the Skipper. This was a substantial deprivation of the bucket.

Chip will be liable in Trespass to Chattels for its loss, although, the better action is in Conversion (infra).

Is Chip liable in Conversion for the bucket?

Conversion is an intentional exercise of dominion or control over chattel which so seriously interferes with

the right of another to control it, that the actor may justly be required to pay the other the full value of the chattel.

Here, Chip threw the bucket overboard and it was lost at sea.

This is a complete deprivation of the bucket to the Skipper.

Therefore, Chip will be liable in Conversion for the full value of the bucket.

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

END OF EXAM

*Excellent job, although discussion of
more defenses would have
made your answer even better.*