

28/38

logical & well-presented. Good job.

1)

=====**Start of Answer #1 (1206 words)**=====

Rodeo Patrons and Midville Drivers v. Wild Will

Negligence is an act or omission to act that breaches a duty of care and is the actual and proximate causes of plaintiff's injuries.

Duty

All persons have a duty to refrain from subjecting others to an unreasonable risk of harm. This duty requires the actor to conform to a certain standard of conduct. The ordinary standard is one of reasonable care which is measured against what a reasonable person would do in similar circumstances.

Here, Wild Will (WW) had a duty of reasonable care to make the premises of his show safe to patrons. This duty of care may even be heightened due to him being a professional Western Entertainer. To establish WW standard of care it is compared to a competent professional in the same field in a similar community; an expert witness would be needed to supply this basis.

good!

7

Breach

A breach is the defendant's failure to conform to the requisite standard of care. Here, WW did not enclose the animals with proper fencing when it was known that the animals had the ability to leap over the 4-ft high enclosure nor did adequately sedate the animals when he knew that the enclosure was too low.

Cause

The plaintiff must show that the alleged injuries would not have occurred but for the Δ 's negligent conduct.

Here, if the animals were confined in an enclosure that was at least 4-ft high, Loco the bull would not have been able to jump out. Because of WW's failure to promptly enclose the animals, which is his negligent conduct, Loco the bull would not have jumped out into the crowd.

### Proximate (Prox) cause

Proximate cause occurs when the  $\Delta$ 's conduct sets off a natural and unbroken sequence of events that produces  $\pi$ 's injuries. An intervening cause is an act or force put into motion after the  $\Delta$ 's negligent conduct. A superseding cause is an intervening cause that severs the chain of events due to its significant magnitude and consequence. Here, it is reasonably foreseeable that a bucking bull would trample and hurt patrons once it jumped into the area seating, + *B*

*intervening causes*

### Damages

$\pi$  must prove physical harm or property damage. Here children were crushed and cars were damaged. ✓

### Defenses

No defenses or privileges are evident by defendant's conduct towards  $\pi$ . ✓

### Ted v Sue

Battery is an intentional unprivileged harmful or offensive touching of another. It can be achieved through the use of an instrument and one must only intent the touching. Here, Sue fired a gun and hit Ted. She intended to hit the bull but via the doctrine of transferred intent, her intent can fulfill the intent element of battery to Ted. Therefore, Sue is likely liable for batter because she intended a touching via the use of her pistol and the touching occurred. *what was the intent she intended? Tres → chattel? Wasn't that defensible?*

### Defense:

Sue may claim Defense of Others for her shooting. Defense of others requires that  $\Delta$  may use a reasonable amount of force to protect a 3rd party who  $\Delta$  reasonably believes is unable to defend himself. Here, Sue saw the bull crush children and shot at him because she wanted to stop the rampage. Therefore, it is likely she will not be liable for battery to Ted because she was trying to defend

*but Neg?*

others.

Ted v. WW

Negligence supra. Here, WW had a duty of reasonable care to Ted. This duty was breached when WW did not erect proper fences or sedate Loco. But-for WW negligent conduct in not erecting fences Loco would not have jumped into the crowd. Ted consented to some physical damage that he knew was involved in bull riding like being bucked from the bull. However, he did not consent to riding a bull in a crowd of people. Here Ted died not from the bull riding but by being trampled by the crowds which would not have occurred had he been riding Loco in the proper arena. WW negligent conduct of not erecting proper fences led to Loco jumping out of the area with Ted on his back who fell off the bull and got trampled by the people. Because WW's negligent conduct is the but-for and proximate cause of Ted's death he is liable.

of the gunshot

(4)

too conclusory, but mitigated by <sup>discussion</sup> ~~discussion~~

WW may try and argue that Dopey was a supervening event because he excited Loco. Dopey is an intervening event but it is not unusual that a bull would charge at Dopey and Dopey to protect himself would jump over the wall. This dynamic between bull and clown is usual rodeo behavior therefore it is not a superseding event.

✓

Security Guards v. Locals

Battery supra. Here, the locals threw the security guards into the animal trough. This touching was unprivileged and intentional; therefore the security guards have a viable claim against the locals.

✓  
(3)

Drivers on Main Street v. WW, Security Guards

Negligence supra. Here, the security may have breached their duty of care when they were unable to close the area's doors to prevent the bull from escaping. The security guards had a duty to keep the patrons reasonably safe. Here, the

*-duty to both*

security guards fulfilled that duty when they opened the emergency exit doors. The security guards had a duty to keep the patrons of the rodeo safe not the people outside of the rodeo. Nonetheless, the security guards do have a duty of reasonable care which would require them to exert conduct to prevent an unreasonable risk of harm to others. This may entail shutting the bull inside the sports complex. A expert witness may need to testify if it is part of the security guard's job to keep the animals within the area or if that is the responsibility of WW.

*employment "duties" v. tort "duty"*

③

Actual Cause - If the bull had not gotten out of the sport's arena it would not have created damage to drivers and fleeing patrons. But for the security guards lessened capacity this would not have occurred.

*What Δ responsible for that*

The bull escaping the area is a foreseeable result therefore it occurred naturally from WW's original negligent conduct. WW may argue that Sue shooting at Loco and aggravating him combined with the lessened capacity of the security guards were superseding causes that would cut off his liability. But it is naturally foreseeable that a bull who jumped out of the performance area into the general area would be able to escape due to the desire of the rodeo patrons to flee which would create an opening for the bull to exit into the street. Therefore, WW is liable for all of the damages that Loco caused.

Phil v. Will

Battery is an intentional unprivileged harmful or offensive touching of another. Here, Will threw Phil off of the balcony. A battery only requires the intent to make contact with another person. Per the facts one can infer that this was a volitional act by Will to Phil; therefore a battery was committed.

③

Midville, Rodeo Patrons, Drivers, v. Mayor / Midville

Negligence supra. Here, the Mayor was put on notice by his consultant that the wall of the rodeo were not high enough. Because the rodeo extravaganza is a city

③

sponsored event, the mayor has a duty to ensure the safety of his citizens. This duty was breached when he did not force WW to erect higher fences.

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

4)

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===== Start of Answer #2 (1891 words) =====

ALICE'S MOTHER v. NORM

Assault

Assault is the intentional placing of a person in a reasonable apprehension or fear of an

*36/38*

*Articulate, comprehensive & well organized*

*First rate: well organized*  
*Don*

imminent battery.

Here, Norm stormed toward Alice's mother (AM), screaming. He did not threaten to injure AM, but Norm was waving a remote control above his head and it seemed he was about to threaten her by saying "I'll teach you to..". It would be reasonable to assume that Norm was going to imminently batter AM, and therefore it would be reasonable to be in apprehension of such battery. It is not stated whether AM was actually placed in apprehension by Norm's actions, and she also likely was not in apprehension because she had multiple body guards with her. With these facts, we are unsure of whether Norm will be held liable for an assault.

NORM v. BODY GUARDS

Battery

A battery is the unprivileged, intentional harmful or offensive touching of another. Here, the bodyguards intended to commit harmful and offensive touchings against Norm, as they viciously beat and kicked him. There is a question as to if this beating was "privileged" as they believed to be ensuring the safety of their employer. This "defense of others" could be argued by the Body Guards' counsel, but will likely fail because the force that they used in "protecting" AM was completely unreasonable. It was unreasonable because the body guards outnumbered Norm, hit him with inherently dangerous weapons (batons) and kicked him with steel-toed boots. This is very excessive force to subdue someone who has not committed any sort of battery. Due to the excessive force, the Body Guards will be held liable for battery.

ALICE'S MOM (AM) v. NORM

Intentional Infliction of Emotional Distress (IIED)

IIED is the intentional infliction of extreme or outrageous behavior that would cause a reasonable person to suffer extreme or severe emotional distress. Norm stormed up to AM and screamed "your kind ruin everything". This phrase, although could be somewhat offensive, is not extreme or outrageous. A reasonable person would not suffer extreme or severe emotional distress from this phrase, although AM seems like the type of person who would argue that it would. Norm will likely not be held liable for IIED against AM.

*intentional*  
*(+)*

### BODY GUARDS (BG) v. NORM'S FRIENDS (NF)

Assault (supra)

NF were said to be many people, who were all outraged. NF actually "howled with outrage" <sup>seconds</sup> before attacking the BG, which should be sufficient for an assault. This seems to have happened right before the battery (discussed infra) of the BG, meaning that NF were close enough to commit the battery and could reasonably put the BG in apprehension of such imminent battery due to their numbers and proximity. NF will likely be held liable for assault.

Battery (supra)

*Subsumed by battery*

NF committed a harmful and offensive touching to the BG by "attacking" them, subsequently injuring them.

NF will likely use the "defense of others" argument, as they seemed to be coming to the aid of Norm. The facts do not state that NF used excessive force in their attempts to help Norm, the only facts are that "many were injured on both sides". This can suggest that both sides contributed equal force.

*(2)*

## NORM v. TWO BGs

### False Imprisonment (FI)

FI is the intentional restraint of a person in a bounded area, without justification or consent. The restrained person must know about their restraint for defendant to be held liable.

Here, Norm was locked in the toolshed by two body guards. It's safe to say that Norm did not give his consent to be locked in the toolshed, as no reasonable person would want to be locked in a toolshed after being badly beaten. Norm had no reasonable means of escape, as we can assume that the shed had one door, which was locked. The question here is whether Norm knew he was confined or not. He is stated to have been badly beaten, but was he aware of his confinement? The facts do not say that Norm was unconscious after being beaten, so it can be inferred that he was still conscious, although extremely dazed. The two BG's will likely be held liable for the FI of Norm.

The Two BGs may argue that they locked Norm in there to prevent further injury to others, but this will fail as Norm never actually committed a battery, and was clearly beaten to the point that he would not reasonably be a harm to anyone.

## NORM v. GARDENER

### Negligence

Negligence is the breach of a legal duty, which results in the actual and legal damages to a plaintiff. Negligence is comprised of a legal Duty, the breach of that duty, and that the breach of duty is the cause of damages.



Duty: The gardener had a duty to make sure that all hazardous materials are stored away safely, ensuring that anyone who enters the toolshed will not be at risk of unreasonable harm.

Breach: The gardener breached that duty by leaving the cap off of the highly toxic benzene.

Cause: The fumes of the benzene may have been the actual and proximate cause of Norm's death, but also might not be considering how badly Norm had been beaten prior to his confinement. Expert testimony would be required to determine how much of a contribution the benzene was to Norm's death. ✓

Damages: Inhaling the toxic fumes of the benzene could have directly caused Norm's death. (4)

The gardener could be held liable for the death of Norm, if it is determined that the open benzene was an actual and proximate cause of Norm's death. The gardener could be held liable as a joint tortfeasor with the two BGs and be joint and severally liable.

*of other BGs*

The gardener could argue that having someone locked in the toolshed under such circumstances was not reasonably foreseeable, and a stretch to consider so. One would not reasonably foresee that a badly injured person would be locked in a gardener's toolshed for hours.

*less irrelevant - 2 BGs committed*

*an intervening intentional act is major issue here.*

ALICE v. SUE

Battery (supra)

Sue intentionally grabbed a remote control from Alice's hand. Alice did not give her consent to sue, thus the grabbing was unprivileged and could be interpreted as

offensive. A battery does not specifically have to be against a person's body, it could also apply to extensions of people, such as a plate of food that they are holding, or a remote control within their hand. Sue will likely be held liable for a battery against Alice, with no apparent defense. (2)

### Conversion

Conversion is the intentional permanent or very substantial interference with the chattel of another. Here, Sue intentionally threw Alice's remote control into the pool. This would permanently destroy the electronic device, and detract all value that it had to Alice. Sue will likely be held liable for the conversion of Alice's remote control. (2)

### Intentional Infliction of Emotional Distress (IIED)

IIED is the intentional infliction of extreme or outrageous behavior that would cause a reasonable person to suffer extreme or severe emotional distress. Sue lashed out at Alice, a child, stating that her mother had an affair and that was the reason she was born. She also alluded to the death of Alice's father, and claimed that her mother had actually killed him and staged it as an accident. These statements can definitely be viewed as extreme and outrageous, especially because Sue is an adult and Alice is a child. Sue clearly had the intent to cause severe emotional distress to Alice, and her actions would likely cause extreme or severe emotional distress in a reasonable person. Sue will likely be held liable for IIED, with no solid defense. (3) (41) very nice done

### TOY BOAT OWNERS (TBO) v. SUE

### Trespass to Chattel (T2C)

T2C is the intentional interference with the personal property of another.

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Here, Sue threw Alice's remote control into the pool, which consequently caused Alice's boat to run into and destroy the boats of the TBO. This clearly interfered with their personal property of TBO, but this was not Sue's intent. Sue did intend to convert Alice's remote control, and by the doctrine of transferred intent, may be held liable for the resulting damages to the TBO. It can be argued that Sue could not reasonably foresee the destruction of other boats after she converted Alice's remote control.

3

That's Neg - this is T2C - an intent tort  
DROWNED TBO v. SUE

Proximate cause is the process by which causation is limited only to circumstances where the causal connection between an act and the subsequent injury are sufficiently close. Here, anxious TBO jumped into the pool attempting to save their toy boats, as a result of Alice's boat running amok, which was a result of Sue converting Alice's remote control. Having people drown as a result of throwing a remote control into a pool is too far of a stretch to be considered a proximate, or close, causation. If the TBO could not swim, it would be partly their fault for choosing to enter the water. Sue will likely not be held liable for the death of the TBO.

2  
Sue would have to have been for Causation to be a factor here.

DROWNED TBO v. CITY OF MIDVILLE

Negligence Per Se (NPS)

NPS consists of the normal elements of negligence (supra), but the duty and breach are proven via the violation of a statute. In this case, we are given State Law 41, which requires that "every publicly-accessible body of water exceeding 3 feet in depth shall have warnings posted which state the depth of water".

The facts state that this pool was 8 feet deep, which would require that the city follow the statute and post warnings with the depth of the pool. The facts here do not include whether or not there were any warnings about the depth of the pool. The facts do state

good watch

that the pool was 200 ft long, so we will assume that there were no sufficient warnings of depth near the TBO who jumped in. This would be a violation of the statute, and thus satisfy the duty and breach elements of negligence.

Causation: It can be argued that the TBO would not have jumped into the water had they known how deep it was. If it were three feet deep, their efforts to rescue their boats would be reasonable. If the TBO had known that the depth of the pool was 8 ft, they would not have reasonably jumped in to rescue their demolished toys. Because they were unaware of this, it could have been the cause of their death.

Damages: The TBO died as a result of not being aware of the depth of the pool.

If there were no warning signs of the depth anywhere around the pool, the city breached their duty and will likely be held liable for the deaths of the TBO. If there were signs of depth around the pool, they clearly had no effect and would not be reasonably sufficient for a 200 ft pool.

## SENIOR CITIZENS v. AM

### Battery (supra)

Alice's mother was "using her martial arts expertise" to fend off a group of senior citizens who happened to be in her way. The unprovoked use of martial arts against the elderly should be determined as unprivileged, as they were only standing in her way. It can also be considered a harmful touching, as no reasonable senior citizen would welcome a round house kick to the face, or any harmful touching for that matter. AM does not have a strong defense for this battery.

=====**End of Answer #2**=====

**END OF EXAM**