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**Skip v. Volvo Dealership ("Volvo") for Negligence**

Negligence is the breach of a duty of care to act in a manner in which an ordinary reasonable prudent person would act under the circumstances, which causes actual damage to another's person or property.

The Volvo dealership was under a duty of care to make sure that people did not climb on the wheel because it was dangerous, and they knew it was dangerous, and they may have breached the duty by not placing a larger sign near it warning people to stay clear of it. If the sign was so small it was easily missed, and Skip's injuries were caused by him climbing on it because he didn't know it was dangerous, which caused him to fall and sprain his wrist, they will be liable for the damages to his wrist. Volvo's defense will be that a reasonable person would not climb on the wheel, so Skip was contributorily negligent.

If Skip was contributorily negligent, then under the doctrine of comparative negligence, the court would assess how much of his injuries were his own fault and assess a percentage of his damages to himself, so Volvo would only be liable for a portion of them.

also the signs on the car arguably encouraged Skip's conduct

**Volvo v. Skip for Negligence**

Negligence supra.

Skip may have had a duty not to climb on the wheel - a reasonable person probably wouldn't do such a thing, but would know it was a display not to be touched. If so, he breached this duty by climbing on the wheel, which caused him to fall on Volvo's old rose bush, flattening it. The value of the rose bush would be the amount of damages awarded. Conversely, the dealer could be contributorily negligent for the reasons described above, and may not be awarded the full value of the rose bush for their comparative negligence in its destruction for failing to adequately warn customers of the danger of the wheel.

There is no intent to damage the rose bush, so Skip will not be liable for any intentional torts such as conversion or trespass to chattels.

**Skip v. Bob for Assault**

Assault is the intentional act which creates and is intended to create a reasonable apprehension of an imminent, unprivileged, harmful, or offensive touching in another.

Skip was alarmed when Bob yelled over the loudspeaker, but Bob's act doesn't rise to the level of assault because the threat was not imminent, and Bob only used words in his action. Also, Bob has a privilege because he works for Volvo and Skip has just damaged their rose bush, so he may have a shopkeeper's privilege to detain Bob.

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**Edith v. Skip for Battery**

Battery is an intentional, unprivileged, harmful or offensive touching of another.

When Skip elbowed Edith, he intentionally touched her without her consent, without necessity, and not in defense of self, others or property, and was not acting under authority of law, so he may be liable for Battery. Skip's defense will be that the environment was crowded and there is always some touching in such a situation that does not rise to the level of battery.

**Skip v. Victor for Battery**

Battery supra.

When Victor grabbed Skip by the shirt, he committed an intentional, unprivileged, harmful or offensive touching of another, because it was done in anger and therefore unprivileged.

There was no actual damage to Skip, but damage is not required in battery. Although Victor did not touch Skip, he grabbed Skip's shirt, which was attached to Skip and therefore qualifies as Battery. Victor's defense may be that he was acting in defense of his mother Edith, but Skip's touching of her had ended, so there was no reason for Victor to defend her.

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**Skip v. Victor for Assault**

Assault supra.

If Skip had any apprehension before Victor grabbed him, then Victor intentionally created a reasonable apprehension of an imminent, unprivileged harmful or offensive touching in Skip, as it was a mildly violent, angry act. If Skip was not apprehensive, then there was no Assault.

#### Audi v. Skip for Trespass to Land

Trespass to land is the intentional unprivileged entry onto the land of another. Damage is not required.

When Skip went through the door labeled "Employees only", he intentionally and without consent entered into an area of the dealership where he did not have permission to be. Privileges to intentional torts are consent, necessity, defense of self, others or property, or authority of law. *Conclusion?*

#### Skip v. Audi for Negligence

Negligence supra.

Skip may argue that Audi had a duty not to place items in its areas open to the public that people could easily trip over, and that Audi breached its duty by placing the 2" thick mat under a car that people were getting into and out of, that his tripping over the mat was the cause of his injuries. Skip will need to prove that the mat was a tripping hazard and that Audi was under a duty of care as a reasonable dealership to not place items in its showroom that people could trip over. Audi may argue that all dealerships have these mats, so most people are used to them and don't trip, and that Skip was contributorily negligent in not paying attention to where he was walking.

Skip may also argue that getting hit with the door of the car was a foreseeable consequence of him tripping over the mat and falling by the car, and Audi will argue that it was unforeseeable. *Conclusion?*

#### Skip v. Customer for Negligence

Negligence supra.

Skip may argue that the customer breached his duty of care to make sure he didn't hit anyone with the car door when he got out of the car, which caused Skip's damages in the form of a severe concussion. The customer will argue that Skip being on the floor was not foreseeable, so no duty existed.

If it cannot be determined who was at fault for Skip's injury, and both the dealership and the Customer are found to be negligent, then they could both be 100% liable for damages. If a portion of Skip's injury can be allocated to each of them, then under joint and several liability each would be liable for part of Skip's damages - the concussion.

#### Skip v. Al for Battery

Battery supra.

When Al slapped Skip, he intentionally touched Skip, which was offensive to Skip, as evidenced by his reaction of yelling at Al to get away from him. However, Al's defense will be necessity - he was trying to help Skip recover from his fall and wake up, and was not trying to hurt him - he was slapping gently just to wake him up. Al will probably not be found liable for battery.

#### Skip v. Al for Assault

Assault supra.

When Al went to help Skip up, Skip clearly was unconsenting because he had told Al to get away from him, but again, Al was just trying to be helpful, so he will likely not be liable for Assault. Skip was apprehensive of an offensive touching, but his apprehension was unreasonable, since he was refusing help.

#### Al v. Skip for Battery

Battery supra.

When Skip shoved Al's hand away, he intentionally and without privilege committed a harmful or offensive touching upon Al, as evidenced by the word "shoved". Al did not consent, there was no necessity, and Skip cannot claim defense of self, others or property needed, as Al was trying to help. Skip may be liable for Battery.

**END OF EXAM**