

31/38

*Good use of law & the facts;
articulate and well presented.
Excellent.*

Don

1)

===== Start of Answer #1 (742 words) =====

Jill's Juice, and the Estates of Jill, Tess, and Eight Unnamed Juice Drinkers v. Norm

Negligence is when a duty of care is breached causing damages to another's person or property.

Norm may be strictly liable for the harm done by is keeping of a wild animal, a Jalla: He had a duty not to subject other to unreasonable risk of harm from the Jalla. He breached this duty by possessing and failing to properly contain the Jalla. The Jalla escaped and was liquefied into Jill's Juice, which was the proximate and actual cause of the lethal tainting of 90 bottles of Jill's Juice.

These tainted bottles killed 9 people, led to a possible collapse of Jill's Juice, and resulted (in conjunction with other torts) in the severe emotional distress of Jill.

Norm may also be found liable under negligence per se as there is a statute prohibiting the possession and importation of the Jalla because of its poisonous nature. If the language of the statute seeks to protect individuals from poisonings caused by the Jalla then negligence per se will also be a viable cause of action against Norm. Norm may be jointly liable with Jill's Juice and others for the harm done to person's who drank the tainted juice, these tortfeasors will only be held if the jurisdiction permits a wrongful death action.

6

*to
conclusionary
more
discussion, pls.*

IIED?

72

*but reduce if strict
Liab for
abnormally
hazardous 2014*

Store v. Tess' Estate

Conversion is the intentional interference with the personal property of another such as to constitute a loss of the item.

Tess intentionally took a bottle of juice from the store with the aim of drinking it. If Tess's estate can prove that she really sought to return later to pay for the item the cause of action may change to a simple trespass to chattels. The store will likely prevail on this action for the value of the juice.

4

Estates of Tess and Eight Unnamed Juice Drinkers [T8] v. Jill's Juice [JJ]

Negligence supra.

Manufacturing Defect is a deviation from the intended design and production of a good that causes harm to others. Because the makers of commercially distributed products are strictly liable for harm caused by there product even though every standard of care may be met. JJ had a duty not to subject others to an undue risk of harm. JJ breached this duty by failure to adequately inspect the apples and by distributing tainted juice. The tainted juice was the proximate and actual cause of the deaths of T8. If this jurisdiction has a wrongful death and/or survival suit this cause of action can be maintained by the estate or relatives of T8. JJ may have a defense that Norm's actions constituted a superseding cause. However, because the change in production practices by Paul to reduce the number of inspectors on the line this tragic error may be seen as preventable making JJ jointly liable with Norm - this is a less probable outcome.

Why?
a
Norm's job!

good for
but Norm's
may
preclude JJ!

Jill's Estate v. Jan's Drunken Boyfriend [DBF]

Defamation is the unprivileged publication of a false and malicious statement to a third party, which results in harm to the reputation or business of another.

Slander is the spoken form of defamation, and Slander Per Se is when such falsehoods revolve around sensitive matters such as imputations of a major crime.

DBF told his girlfriend Jan the falsehood that Jill had been convicted of selling meth to kids, a major crime. If Jill's estate can prove that such statements were made with DBF knowing them to be false then the action for slander per se will prevail. General and special damages can be awarded to Jill's estate for the harm to her reputation and business.

not an element
unless NY Times standard? (run - media to)

Jill's Estate and Jill's Juice v Jan is employer

Defamation supra.

6

As a broadcast form of publication this may constitute libel (or ^{libel}libel per se, as this has imputations of major crime). However in accordance with New York Times v. Sullivan, Jill's Estate will have to prove that the statements made by Jan about Jill selling meth were made with ["]actual malice. Actual malice is defined as knowledge of the statement's falsity or a reckless disregard for the truth. If Jill's Estate can prove Jan was aware of her boyfriend's lie or had substantial reason to doubt the truth ^{it was her drunk BF!!} of his statement then this cause of action may succeed. However, because the matter of tainted and lethal juice is one of national concern, without the presence of actual malice Jill's estate is unlikely to prevail.

Jill = public figure?

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

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

2)

=====**Start of Answer #2 (1159 words)**=====

Sir Designs v. Lou

a first rate analysis, well-presented. Nicely done. Done

- Interference with Contract - intentional and wrongful interference with existing business interest, resulting in damages.
- Sir Designs had a lucrative relationship with Del. Lou encouraged Del to break that contract, resulting in a loss to Sir Designs.
- Lou will argue that it was Del's choice to pursue boxing. He didn't intentionally interfere. Del wanted a new image. Lou will probably not be liable; he did not have to convince Del to leave.
- Injurious Falsehood - False and defamatory statement communicated to third party intended to cause pecuniary damage such as interfering with a sale or loss of customers
- Lou's description of Sir Designs as "wimpy designers and caviar-munching rich jerks" was defamatory, but subjective. *(opinion?)* Cannot be proven false (or true). *Maybe* It was intended to denigrate Sir Designs in the mind of Del, but is not actionable.

5

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Del v. Rocko

no - Lou's hacker

- Invasion of Privacy - Intrusion into private matter
- Rocko hacked into Del's doctor's computer to get Del's private medical information. Del's privacy was invaded. Rocko liable for this invasion.

3

Rocko & Lou v. Del

- Deceit - Intentional misstatement of material fact on which plaintiff reasonably relied to his detriment.
- Del intentionally concealed the truth about his past head injury from Rocko and Lou, assuming that if they knew the truth, he would now be allowed to fight. Rocko and Lou reasonably relied on Del's representation of himself as healthy and able to fight safely, and found themselves with a fighter who could die in the ring.
- Del could argue that Rocko and Lou weren't justified in relying on his own report of his

not synonymous

no - that

he never "reported"

health. Their failure to seek a complete medical examination was the reason they didn't know about his condition. He would say it wasn't his responsibility to tell them.

- Del probably not liable for deceit, especially if it is shown that once Rocko and Lou knew the truth, they disregarded it anyway.

nicely reasoned, sound conclusion

Boxing Commission v. Lou

- Deceit - Intentional misstatement of material fact on which plaintiff reasonably relied to his detriment.
- Lou intentionally concealed the truth about Del's head injury from the boxing commission, knowing Del would not be cleared to fight if they knew the truth (material fact). It appears the boxing commission relied on their lack of information indicating that Del wasn't healthy enough to fight.
- Lou could argue that if the boxing commission had enforced the rule about Del having a medical examination before the fight, they would have found out the truth themselves.
- As a professional boxing promoter, a dangerous sport, Lou is held to a higher standard of care for the safety of his athletes. Even if his action was not deceit, could be considered negligence. See discussion infra.

Rocko v. Boxing Commissioner's Office

against the actor Δ.

- §1983 Violation - Act under color of state law that deprives plaintiff of Constitutional right.
- Rocko has a Constitutional right to not be discriminated against because of his religious beliefs. Boxing commissioner, a state official, violated this protection. Boxing commissioner's office can be liable for civil rights violation as respondeat superior, or could claim the commissioner was acting on his own (not within scope of state authority), meaning it was not a state action and no cause of action under §1983.
- Abuse of Process - Misuse of legal system for improper purpose.
- Boxing commissioner was not justified in using the licensing rules to impose his religious beliefs.

5

Boxing Inspector v. Slug

- Battery - Intentional and unprivileged harmful or offensive touching.
- Slug intentionally beat the boxing inspector senseless. Harmful. Slug is liable for damages.

(5) False Imprisonment - Intentional and unprivileged direct physical restraint of another without any reasonable means of escape.

- Slug intentionally locked inspector in a closet, without any means of escape. He was there until the janitor found him. Slug is liable for damages. *nope?* • Negligence - see definition infra

• Could also be charged with negligence for leaving an unconscious person in a closet. Slug had a higher duty of care because he caused the boxing inspector's injuries, and would be liable if those injuries were exacerbated by leaving him unattended.

if unconscious for duration

not neg in that intentional act.

o large if

Boxing Inspector v. Rocko

(1) • Rocko is vicariously liable for Slug's tortious conduct towards boxing inspector. Rocko instructed his employee Slug to "keep that guy away from me tonight," so Slug was operating within the scope of his employment. *no illegal acts legitimately w/in scope of employment*

• Rocko will argue that he didn't mean for Slug to do anything illegal, and didn't want the inspector to be injured. It could be shown that Rocko knew Slug was likely to hurt the inspector, making Rocko liable. *why?*

Estate of Del v. Rocko / Lou

- Wrongful Death - compensation for loss of Del's beneficiaries
- Negligence - breach of a duty to avoid subjecting others to unreasonable harm, which is the actual and proximate cause of damages.
- Under Survival statute
- Rocko and Lou let Del fight when they knew it was dangerous. They had a higher standard of care because of the risk of injury or death in boxing; especially because they knew of Del's past head injury.
- Duty was breached by allowing Del to fight. See discussion below of actual and proximate

cause.

• May be Negligence per se under regulation requiring a complete medical examination prior to the event, but not clear that the records stolen weren't from that examination. Maybe it happened? If not, Del was member of class that legislation was intended to protect (boxers) and from harm intended to prevent (exacerbation of injury/risk caused by pre-existing condition). Rocko and Lou, as the coach and promoter, would be liable for the breach of this duty for Del to have a medical examination prior to fighting. The lack of general knowledge that another head trauma could kill Del was an actual cause that led him to be in the ring fighting resulting in his death. Del's death followed from a natural and unbroken sequence of events stemming from Rocko and Lou failing to either have Del examined, or heed the knowledge they had from the medical examination he did have. They are liable for his death.

boxing commission?

4

excellent

• Can argue Del's assumption of risk by showing he understood the particular nature of risk and its magnitude, but voluntarily assumed risk because he didn't believe he'd be hit. Del's comparable negligence can be shown because he withheld information about his injury.

Damages will be apportioned.

• Lou is also liable; Rocko will seek contribution for indivisible injury.

Estate of Del v. Lou

- Wrongful Death - compensation for loss of Del's beneficiaries
- Negligence - breach of a duty to avoid subjecting others to unreasonable harm, which is the actual and proximate cause of damages.
- Under Survival statute
- See discussion supra Estate of Del v. Rocko re: higher standard of care, breach, causation, and damages.
- Rocko is also liable; Lou will seek contribution for indivisible injury.

same act

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

END OF EXAM