

1)

31/38

===== Start of Answer #1 (1501 words) =====

Jane (J estate)v. Greg(G)

Wrongful death

G will be liable for the wrongful death of J as discussed infra. Her spouse and next of kin may sue G for a wrongful death and he will be responsible for the damages such as lost wages and loss of consortium to her spouse if she had one and her next of kin

Survival statute

J estate will also be able to bring suit for most torts committed against her while she was alive that caused her damages that she suffered while alive

trespass to chattels/ conversion

Trespass to chattels is the intentional intermeddling with the chattel of another that seriously interferes with their right to possess the chattel or results in damages

CO~~n~~version is the serious interference or intermeddling with the exclusive right of possession by the plaintiff of chattel to the extent that the chattel substantially loses all value.

When G ripped the gun from J's hand and threw it in the lake his was liable for the damages. It is reasonable to assume that a gun being thrown in water would cause damage. Plus she lost the use of the gun until she could retrieve it, if that was even a possibility. The facts are silent if it would be reasonable for anyone to find the gun and bring it back up. not to mention the fact that the gun would have serious water damage.

max

The water most likely has rendered the gun valueless and the tort in this instance is conversion. G will argue that he was protecting his property as J intended on shooting the tiger, but as J was trying to prevent the tiger from causing damages this defense would not be valid.

(4)

more serious

G is most likely liable for conversion

Battery

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

When G ripped the gun out of J hand this was an offensive touching. The facts do not state if he touched her or the gun but it does not matter, as grabbing something on or being held by the plaintiff is enough to be considered an offensive touching. Since J was holding the gun when it was taken this is a battery

(5)

G is liable for battery

Strict liability

Strict liability holds a person liable, regardless of fault or level of care used, when damages occur from their engagement in abnormally dangerous activities. Causation and damages still must be proved.

Causation must be the actual, But for the defendant doing A, B would not have happened to the plaintiff, and proximate, the natural and unbroken chain of events leading to damages. There can be no superseding or intervening act

One activity that is considered abnormal dangerous is the possession of non-domestic animals, as the tiger G had imported in clearly is. G is responsible for all the damage

that the tiger caused. He will argue that he took every precaution necessary to protect from the tiger causing damage. He will also argue that he should not be responsible as the Kat Kollar (KK) he purchased clearly breached their express warranty (Discussed more infra) and did not perform as it should of. This might make KK a joint tortfeasor and the damages then would probably be indivisible making them jointly and severally liable, but it will not relieve G of his liability. But for G owning a wild tiger the damages and the death would not have occurred. There is no superseding acts.

3

Since owning non-domestic animals is considered an abnormally dangerous activity, and this animal clearly caused damages G will be held strictly liable for the damages the tiger caused

to whom?

G. v. J estate

Assault

Assault is intentionally placing a person in imminent apprehension of a harmful or offensive touching

When J pulled out her pistol and pointed it at G this was an assault. A reasonable person would be in apprehension at this point. By pointing the gun at G and say "I'll shoot you if you interfere" was enough to make her liable for assault. J estate will argue that it was an emergency and she was trying to protect anyone in the area from a dangerous animal. G was acting unreasonable thinking only about his tiger, and not the damage the tiger could create. It appears from the facts that J was completely reasonable in pointing the gun at G

conditional threat

3

J is probably not liable for assault

Sue (S) v. J estate

Conversion/ Trespass to chattels

Defs supra

When J shot S's dog this clearly caused damage to S's property. J had the intent to shoot the tiger which was G's property. Her intent to cause damage to G's property would transfer under the transfer intent doctrine to S's property. This would be a conversion however the transfer intent doctrine does not work for conversion, but does transfer the intent to trespass to chattels. J will argue she was trying to protect S from the tiger. This is probably a valid defense however she may be liable for negligence

?

(S)

J is not liable for trespass to chattels or conversion

Negligence

Negligence occurs when a duty of care is owed and the breach of that duty is the actual and proximate cause of damages.

J had a duty to not subject S or her dogs to an unreasonable risk of harm. S will argue that J acted unreasonable and negligently when she fired her gun at the tiger. J will argue that it was not unreasonable and any reasonable person would have done the same.

W/ breach

(S)

From the facts it does appear that J's actions were reasonable under the circumstances, however G is probably liable for all the damages caused to S. (Infra)

If it is found that J is liable for any damages caused it would make G vicariously liable under the doctrine of respondent superior. This doctrine holds an employer liable for the

But he's already liable under SL.

torts of an employee committed while acting within the scope of their employment.

creation

(+1)

J was clearly acting within the scope of her employment and if she is liable G will be to.

J. v. Greg - SK.??

Sue v. Greg

Strict liability

Def supra

G is responsible for the damages that the tiger caused as discussed above. BUt for G keeping a wild tiger in his house, the tiger would not have ate one dog and J would not have shot the other in an attempt to prevent the tiger from causing anymore harm. This is the direct result of G trying to maintain a wild animal on his property.

*0055/11/14
Her v. Greg
Sue*

(4)

G is liable for all damages done to S

Private and public nuisance

Private nuisance is the unreasonable interference with another's use and enjoyment of their land/property

Public is an unreasonable interference with a right common to the general public. Plaintiff must show the nuisance effected them more than the rest of the public.

The facts state that the tiger roared shattering the silence in the night, and greg always had many animals on his property. If it is can be shown that S enjoyment of her land was interfered with by G she might be able to recover damages on a private nuisance

*430
S. Pecorham*

All of S damage occurred on public land as she was walking her dog. Introducing a wild tiger is an unreasonable interference with the right to walk on a road.

G may be liable for public nuisance

G v KK

Defective products liability

Defective products liability holds a manufacturer strictly liable when they introduce a defective product into the stream of commerce.

G will argue that he relied on KK's express warranty that "the only shock collar guaranteed to subdue even the largest, and ferocest cat". G will state that he purchased the unit to subdue his very large cat and the product failed. KK will argue that they were talking only about domesticated animals and were not guaranteed that their product would stop a full grown tiger imported from India. That a imported tiger is not a foreseeable use for its product and they should not be held responsible for G's actions

The fact that KK had an express warranty that their product would stop any cat does not make them liable in this situation. It is clear that using the product on a tiger is not a foreseeable use and they are probably not liable.

Greg will then argue that the product malfunctioned and didn't even work. If this was the case then it would be a manufacturer defect as it was not working as the manufacturer anticipated. It is unclear if the product did not work, or if the tiger just did not feel the shock. Either way KK is probably not liable as it would be extremely unlikely that the way G was using the product was a foreseeable use for it.

KK is not liable for any damages that the tiger caused.

Since KK is not liable for any damages the tiger caused S and J's estate will have no cause of action to make them a joint torfeasor with G.

2)

===== Start of Answer #2 (1670 words) =====

Liz (L)v. Nan (N)

33/38

Defamation

Excellent

Defamation is a false, unprivileged, defamatory statement published to a 3rd party. when it is written it is libel and when spoken it is slander. Newspaper articles are considered libel.

The courts, in order to protect the rights under the 1st amendment, require to show actual malice when dealing with a public concern issue.

Actual malice is when the defendant knew the statement was false or acted with a reckless disregard to its falsity.

The courts held in the New York Times case that if the plaintiff is a public figure/offical and the issue is of public concern the plaintiff must show actual malice to recover any damages.

In Gertz it was held that a private plaintiff with a issue of public concern only needs to show negligence in the falsity for general damages but must show actual malice for

punitive damages.

Here it seems the New York Times would apply as Liz is the most famous chef in the city and is more known than the mayor. Since she is a public figure actual malice must be shown. It appears that N acted with actual malice. N will argue that she was not acting with actual malice as she thought the statement could be true off of what Joe (J) had told her, and she published the story cause her boss wanted it to run. But any reasonable person can see that she acted with a reckless disregard to the truth of the statement. It was reckless to publish the story when all J said was the pigeon had to be cooked right.

If it is determined that N act was a reckless disregard than she will be liable for defamation under the new york times standard

J Daily Times

Liz v. Daily time

Defamation

Def supra

Daily time is responsible for defamation just as N is. A primary publisher is responsible for the articles that are published just as if they were the authors. As discuses above it appears that L can show actual malice and will be able to recover under the new york times standard

Tom v. Nan and daily news

False light

False light is a published misleading statement designed to portray the plaintiff in a

false light in the public eye.

When the story came out about L N and the daily times used a picture of Tom picking up trash. But they made the picture with the head lines look like tom was selling Dead pigeons to L to cook in her restaurant. This would cause a reasonable person to view Tom in a false light as many people would look down on selling dead pigeons to someone to cook and sell to the public

good

3

N and the daily new would be liable for false light.

Workers v. Joe

Abuse of a legal process

but legal process invoked

Abuse of a legal process is the wrongful use of a legal process where the defendant has an ulterior purpose.

The facts are unclear if the workers were required to talk to Joe or not. If they were required to talk to him than his actions would be reasonable under the circumstances. But the facts tend to lead that the only reason he pulled the permits is because he felt ignored. If this is the reason he pulled the permits than it would be a wrongful use, and J had an ulterior purpose.

2

If it is determined that J only pulled the permits because he was being ignored and that was not protocol than he will be liable for abuse of a legal process

Liz v. JOe

Interference with business relations

Interference with business relations is the intentional and wrongful interference with the existing business relations of another that causes damages. Joe's act to pull the permits which from the facts seems unreasonable would be a clear interference with Liz's business relationship with her workers. If his act was wrongful then Joe is probably liable for the damages he created. And if L can show the damages that were caused by the workers not being able to work then she will be able to recover from Joe.

+2
nice

Liz and workers v. the county

Vicarious liability/respondent superior

Under respondent superior the county could be liable for the torts Joe committed while acting within the scope of his employment. The county will argue that Joe took it upon his own initiative to go to the restaurant and he was not doing it within the scope of his employment. But if his job required him or encouraged him to go to places on his own accord then all his acts would have been within the scope of his employment and they would be liable as well.

+1

The county might be liable under the doctrine of respondent superior.

Customers v. Liz

Negligence, negligence per se, and respondent superior.

Negligence occurs when a duty of care is owed and the breach of that duty is the actual and proximate cause of damages.

Negligence per se is used when one violates a statute, and that violation can be used to satisfy the duty and breach elements as long as the plaintiff is in the class of people the statute is design to protect and the type of harm is the type the statute was design to prevent.

The statute seems to want to protect customers of food vendors from becoming sick by eating spoiled or un approved food. Negligence per se could be used if the customers became sick from the pigeon, but from the facts it is clear they were harmed from being poisoned not from the pigeon. Negligence per se probably does not apply but a case for negligence can be made without it

6

L owed her customers a duty not subject them to unreasonable risk of harm. She breached that duty when in a desperate time hired under qualified help to work in her restaurant.

insurance help?

Causation must be the actual, but for defendant doing A, B would not have happened to the plaintiffs, and the proximate the natural and unbroken chain of events leading to damages. there can be no superseding acts

But for L hiring workers that were not qualified or properly screened for employment the customers would not have been poisoned. L will argue that Shorty (S) poisoning the customers was a clear superseding act and should break the chain of causation. Usually an intentional tort will break the chain of causation. But the customers will argue that her negligence in hiring an employee basically off the street without proper supervision made S's intentional tort a foreseeable instance and the chain of causation will not be broken. If the chain is not broken then it is likely the damages will be indivisible and her and S will be held jointly and severally liable as joint tortfeasors. L will also argue the customers that died should not be her responsibility as the Chain of causation was broken by Robert for driving drunk, but a delay by medical personal is a foreseeable occurrence and it might be considered just an intervening act not superseding. If it is not superseding Robert will be joined with L and S as joint tortfeasors

2

not their duty or neg.

well provided

Also S was working for L and she may be held liable under the doctrine of respondent superior, but S's intentional act would probably be considered outside the scope of his

employment as he was seeking revenge, so the best cause of action will most likely be negligence.

The customers that died will be allowed to have their estates sue for the damages cause to them while they were alive under a survival statute.

Their spouses and next of kin will also be allowed to bring about a wrongful death suit that will in title them to the damages that was caused by their untimely deaths

A case against L can be made to for defective products liability.

Defective products liability holds a manufacturer strictly liable when they introduce a defective product into the stream of commerce. Defect products can also include food. The pigeons were a clear deviation from how L intended them to enter the market. If she is not found liable under negligence she will be held strictly liable under defective products liability

foo
for
confused

Customers v. Shorty

Battery

Battery is the intentional, unprivileged, harmful or offensive touching of another, with substantially certainty that the act will lead to a harmful or offensive touching.

By poisoning the food S cause a very harmful and offensive touching on the customers. S will argue that his intentions were to get back at L and not harm the customers. But the was a 100% chance that his act of poisoning the food was going to lead to a battery. Regardless if it was his main intentions or not he still had the intent to poison the food that any reasonable person would know would lead to a battery.

6

S is liable for battery and as discuses supra will probably be a joint tortfeasor with R

and L

Ambulance and 2 dead pedestrians v. Robert (R)

Negligence

DEF supra

Robert breach his duty owed to not subject people to unreasonable risk of harm.

BUt for R driving drunk he would not have hit the ambulance and the edestrains would not have died. There is no acts that break the chain of causation. His act was the direct result that led to both to these damages.

He will be responsible for both deaths under survival statute and wrongful death as well as damage to the ambulance and any injuries the paramedic incurred. His act of delaying the paramedic causing the delay of medical care will probably make him a joint tortfeasor as it is forgeable that hitting an ambulance would cause injury to the pole they were recusing

4

Liz v SHorty

Trespass to chattels

The intentional intermend

71

His positing of the food caused damage to the food. this wold be a trespass to chattels and maybe a conversion as the food is probably valueless

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

END OF EXAM