

MODEL ANSWER

PASS

Blue Book BOOK 1

NAME

SUBJECT LAW STUDY / EXAMS

INSTRUCTOR BURNETT

EXAM SEAT NO. SECTION

DATE 2-3-11 GRADE

TOM V. LEN

1) TRESPASS TO CHATTELS: is the intentional interference with the possession or use of another's property.

In the present case, Len shows an intentional interference with Tom's security deposit by trying to withhold it and fabricating reasons to withhold it. The facts state that he planned to find faults during final inspection so that he could keep the money.

This is clearly an interference with Tom's deposit, therefore Len can be found liable for the intentional tort of trespass to chattels. Why not conversion since it appears that Len plans to keep the deposit?

LEN V. TOM

- 2) TRESPASS to chattels (defined supra). At the final inspection, Tom was so upset that he dropped his orange soda on the floor, causing damage. However, trespass to chattels is an intentional tort, and the

facts clearly state that Tom accidentally dropped the drink. Therefore, Tom would not be held liable for the intentional tort of trespass to chattels.

3) Assault: is intentionally putting another in reasonable apprehension of an imminent battery.

In the present case, Tom is so enraged when Len fabricates reasons to keep his deposit that

he started shouting at Len. It

is evident that Len was in

apprehension because he quickly

retreated from Tom. However, Tom

and family followed Len from

the house where Tom continued

shouting at Len, making him

retreat to his vehicle. He ^{Tom} clearly

put Len in a reasonable apprehension

of an imminent battery. Therefore,

Tom can be held liable for

the intentional tort of assault.

maybe he
quickly
retreated because
didn't want to
shouted at.
nothing in facts
that
Tom tried to
Len. mere fear
not apprehension of a battery
less there's some
reasonable basis for believing
battery is imminent.



SAM V. LEN

NEGLIGENCE: in order to find negligence, the plaintiff must show that the defendant owed him a ~~the~~ 1) duty; that the defendant 2) breached that duty; 3) that the breach was the a) actual and b) proximate cause of the plaintiff's 4) damages.

In the present case, Len would owe a duty of ordinary care to all persons who were crossing

the street to not hit them.

Len breached that duty when

he raced out of the parking lot

to get away from his neighbors.

What about
contributory
negligence/
comparative
fault?

His actions were the actual
cause of Sam's injuries in that
it was Len's car that hit him.

++ Len's actions were the proximate
cause in that there were no

intervening causes. All of these
amounted to Sam's damages.

Therefore, Len can be held

liable for negligence.

WENDY V. LEN

Negligent infliction of emotional

distress: extreme or outrageous

conduct that is likely to cause

extreme emotional pain in another

through the tortfeasor's negligent actions.

In this case, it is shown that

Len was negligent in hitting Sam.

Wendy, Sam's mother, was a

witness to the whole encounter

with Tom, Len, culminating in

Sam getting hit by the car.

Use buzz
words -
"zone of
danger"

Any reasonable mother would have severe emotional problems after witnessing such a thing. However, this tort requires outward manifestations of the emotional distress. The facts are silent to these outward manifestations, so liability would stem on more facts. Good

LEN V. NICK

Trespass to Chattels (defined

supra)

~~After~~ After hitting Sam, Len

stopped his car, presumably to check on Sam. Nick, a neighbor was so upset and angry that he threw a rock at Len's windshield. This rock broke Len's windshield, thus creating an intentional interference with Len's property. Therefore Nick can be found liable for trespass to chattels.

LEN V. NEIGHBORS

Assault: (defined supra)

After hitting Sam, Len's neighbors turned into what seemed like

an angry crowd. His neighbors were shouting and yelling furiously at him. This created a reasonable apprehension in him so that he sped away, never to return. Therefore, the neighbors can be held liable for assault.

But it has to be a reasonable apprehension of an imminent battery. People can yell at each other without necessarily fear of physical violence.

SAM V. DOCTOR

~~That~~ Negligence: (defined supra)

Specifically malpractice. The

doctor owed a duty to Sam to

perform his duties correctly. Sam

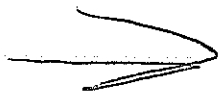
and his doctor had a special

relationship, so he owed him more than just ordinary care. The doctor breached his duty when he failed to diagnose his second broken leg. The doctor was not the legal cause of the broken leg, but was a legal cause of it healing wrong. He was also the proximate cause of the mishealed leg because he failed to diagnose it as broken. His actions led to several unneeded surgeries to

repair the leg.

However, the doctor's negligence (malpractice) does not relieve Len of his liability. It is a foreseeable outcome that someone might receive bad medical care in seeking help to recover from a negligent act.

A court would most likely proportion the damage between Len and the doctor.



LEN V. NEIGHBORS

IIED: (defined as NIED, but done intentionally, rather than negligently)

After Len hit Sam, his neighbors turned into an angry group. They made him so fearful that ~~they~~^{he} didn't want to return again~~st~~. He was severely afraid because of their conduct, and it was to the point where he hired a property manager in order to not have to

return. This tort is questionable
and the neighbors may or may
not be held liable for NED.

Very good answer overall, though I do think
you're too quick to find assaults everywhere.
But your structure is great, definitely very good, +
your analysis is quite good too. Good use of facts
overall.

Good luck in law school!