

Monterey College of Law
Torts Midterm
Fall 2022
Professor B. Soukup

General Instructions:

Answer Three (3) Essay Questions.

Total Time Allotted: Three (3) Hours.

**TORTS
FALL SEMESTER 2022 MIDTERM EXAM
Prof. B. Soukup**

QUESTION ONE

PETER was a teenage boy who loved heavy metal concerts. He had attended close to 20 concerts in the past. Tonight, he was scheduled to go and see a new band called "Speed Demon". "Speed Demon" was playing in a smaller type of venue called the **CATACOMB** in the town of San Cruzel. San Cruzel had a local city ordinance that stated:

Ordinance 456

All concert venues require two security guards to be present at the event. Any venues who have reach more than 90% capacity at a concert, must hire at least one additional security guard that attends the event.

PETER arrived at the show and noticed it was really packed with a lot of concert goers. As the band played many in the audience started to participate in a well-known heavy metal audience floor group dance move called "the mosh pit". (A move where concert holders congregate in the middle of the audience and walk in circles and with their bodies bang into other concert holders). There was no barrier between the "moshers" and the rest of the crowd.

Another concert attendee, named **DAVID** was participating in the "mosh" pit. As the concert went on the crowd grew larger, there was less space between the "moshers" and the rest of the audience. **PETER** was one of the audience members closest to the pit. **DAVID** threw himself into another "mosh" participant but missed him and **DAVID's** body hit **PETER** who fell to the ground. **PETER** saw **DAVID** coming toward him but due to the packed audience could not get out of the way in time. **PETER** suffered a broken arm.

The **CATACOMB** had one security guard up front at the stage and one in the back of the audience as was custom at music concerts. It did not have a security guard in the middle of the audience. Since the band "Speed Demon" was not so well-known **CATACOMB** thought it would have a small audience. It was later discovered that 120 audience members had been admitted to the **CATACOMB** which had a capacity of 100.

PETER files a lawsuit against both **DAVID** and the **CATACOMB**.

Discuss all causes of action and defenses for:

1. **PETER v. DAVID**
2. **PETER v. CATACOMB**

TORTS
FALL SEMESTER 2022 MIDTERM EXAM
Prof. B. Soukup

QUESTION TWO

PRISSY worked as a dog show handler around the country. Her job consisted of showing the dogs in the show ring and grooming the dogs while they were at the shows. Currently, she was hired to show a giant poodle named "Puff n' Stuff". Giant poodles required a lot of pre-show care as they needed to be groomed on-site and kept as clean as possible before entering the show ring.

At a weekend dog show, **PRISSY** arrived two hours prior to the scheduled showing of giant poodles. She set up her space under a canopy with a large dog table for grooming. When "Puff n' Stuff" was not being walked, or groomed, she was supposed to be held in a wire crate.

DERRICK owned a Czechoslovakian wolf dog named "Thor". "Thor" was a cross between a Carpathian wild grey wolf and a German Shepherd. While the breed was not a recognized breed by the American Kennel Society, it had been in existence for over 70 years and kept as farm dogs in Europe. **DERRICK** attended the dog show along with "Thor". Non-showing dogs were permitted on show grounds but had to be maintained as to not disturb the other dogs or their owners/handlers.

About 30 minutes before showing, **PRISSY** placed "Puff n' Stuff" up onto a small grooming table. **PRISSY** realized she had run out of a white powder used to intensify the white color in "Puff n' Stuff's" coat. A local vendor at the show about 50 feet away sold the powder. **PRISSY**, running out of time before the show, decided to quickly run over to the vendor and leave "Puff n' Stuff" on the grooming table tied only with a slim neck harness, rather than take her down and crate her.

DERRICK was walking "Thor" when he spotted "Puff n' Stuff" standing on the grooming table. **DERRICK** approached the table when "Puff n' Stuff" growled which caused "Thor" to react. "Thor" lunged at the table, which caused "Puff n' Stuff" to rear up and knock over the grooming table along with herself to the ground.

At that moment, **PRISSY** returned, and upon seeing "Puff n' Stuff" lying on the ground with the harness tied to the overturned table, **PRISSY** became sick to her stomach, and she fainted. "Puff n' Stuff" was unharmed but due to all the commotion and **PRISSY's** state of health they could not compete in the show.

Discuss all causes of action that PRISSY has against DERRICK, including any defenses that DERRICK may claim.

TORTS
FALL SEMESTER 2022 MIDTERM EXAM
Prof. B. Soukup

QUESTION THREE

POLLY was a 10-year-old girl who attended summer camp every year at Camp **DINKEY**. Camp **DINKEY** was next to a beautiful creek and boasted clean mountain air. **DEVIN** was an 8-year-old girl camper who attended the same week of camp with **POLLY**. Both girls had known each other from the previous summer. They enjoyed playing games and pranks together.

Camp **DINKEY** consisted of several cabins, a dining hall along with a commercial kitchen that housed a walk-in freezer. Campers were not allowed into the walk-in freezer. The campers slept in several wooden cabins. The cabins had small windows that could be propped up but were closed by most campers at night. The staff closed the cabin door and flipped off the main light switch when everyone was in bed for the night.

POLLY and **DEVIN** had just finished their dinners and they decided to sneak into the walk-in freezer to grab some ice cream. **DEVIN** exited first and as a joke she closed the door to the walk-in freezer and locked it from the outside while **POLLY** was still inside. **DEVIN** ran to her cabin where she decided to eat her ice cream in bed. She soon fell asleep and never returned to let **POLLY** out of the walk-in freezer.

DILBERT was a local resident who lived near Camp **DINKEY** in an R.V. (recreational vehicle). **DILBERT** had set up a make-shift methamphetamine lab inside his R.V. Using highly explosive chemicals **DILBERT** cooked up crystal meth (an illegal street drug of high value). **DILBERT** did most of his “cooking” after midnight. Camp **DINKEY** staff had noticed odd behavior by **DILBERT** but just thought he was a hillbilly living in the woods.

That night, the cooking gave off extremely toxic fumes that knocked **DILBERT** unconscious. Soon the chemicals on his stove reached such high temperatures that they exploded, and the fire spread outside the R.V. The fire created toxic smoke that spread into the nearby cabins. Soon the campers started to cough and choke. Many reached to open the windows but because the main light switch was off, they couldn’t see in the dark. Many campers suffered severe lung distress and had to be rushed to the hospital. The campers brought a class action suit against Camp **DINKEY**.

POLLY had in the meantime found a spare knife in the walk-in freezer which she used to pry open the lock and exit after about 10 minutes of being locked inside. Since the incident, **POLLY** has had a phobia toward ice cream.

DISCUSS the following causes of action and defenses for each:

1. **POLLY v. DEVIN** in Intentional Torts only.
2. **Camp DINKEY v. DILBERT** in Strict Liability only.

Do **NOT** discuss Negligence.

TORTS FALL 2022 MIDTERM QUESTION #1
PETER v. DAVID & CATABOMB

ID# _____

EXAM PRESENTATION (TOTAL POINTS AVAILABLE = 10)							
		Poor		Excellent			
NEATNESS/ORGANIZATION	0	1	2	3	4	5	_____
LAWYER-LIKE	0	1	2	3	4	5	_____

DISCUSSION OF ISSUES (TOTAL POINTS AVAILABLE = 90)

PETER v. DAVID

I. BATTERY

20 POINTS = FULL DISCUSSION _____
10 POINTS = PARTIAL DISCUSSION _____

II. ASSAULT

20 POINTS = FULL DISCUSSION _____
10 POINTS = PARTIAL DISCUSSION _____

III. DEFENSES TO BATTERY AND ASSAULT

5 POINTS = FULL DISCUSSION _____
2 POINTS = PARTIAL DISCUSSION _____

IV. NEGLIGENCE PRIMA FACIE (Duty, Breach, Causation, Damages)

15 POINTS = FULL DISCUSSION _____
2.5 POINTS = PARTIAL DISCUSSION _____

V. DEFENSES TO NEGLIGENCE (Consent & Contrib./Comp. Neg./A of R)

5 POINTS = FULL DISCUSSION _____
2 POINTS = PARTIAL DISCUSSION _____

PETER v. CATABOMB

VI. NEGLIGENCE (Duty to Licensee/Invitees, Negligence per Se, Hand Formula)

20 POINTS = FULL DISCUSSION _____
10 POINTS = PARTIAL DISCUSSION _____

VII. DEFENSES TO NEGLIGENCE (Consent & Contrib./Comp. Neg./A of R)

5 POINTS = FULL DISCUSSION _____
2 POINTS = PARTIAL DISCUSSION _____

TOTAL SCORE:..... _____

TORTS FALL 2022 MIDTERM QUESTION #2
PRISSY v. DERRICK

ID# _____

EXAM PRESENTATION (TOTAL POINTS AVAILABLE = 10)

	Poor		Excellent			
NEATNESS/ORGANIZATION	0	1	2	3	4 5	_____
LAWYER-LIKE	0	1	2	3	4 5	_____

PRISSY v. DERRICK

DISCUSSION OF ISSUES (TOTAL POINTS AVAILABLE = 90)

I. NEGLIGENCE PRIMA FACIE (Duty, Breach, Causation, Damages)

30 POINTS = FULL DISCUSSION _____
15 POINTS = PARTIAL DISCUSSION _____

II. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

20 POINTS = FULL DISCUSSION _____
10 POINTS = PARTIAL DISCUSSION _____

III. DEFENSES TO NEGLIGENCE (Consent & Contrib./Comp. Neg./A of R)

10 POINTS = FULL DISCUSSION _____
5 POINTS = PARTIAL DISCUSSION _____

IV. STRICT LIABILITY (Wild Animals)

20 POINTS = FULL DISCUSSION _____
10 POINTS = PARTIAL DISCUSSION _____

V. DEFENSES TO STRICT LIABILITY (Assumption of Risk)

10 POINTS = FULL DISCUSSION _____
5 POINTS = PARTIAL DISCUSSION _____

TOTAL SCORE:..... _____

TORTS FALL 2022 MIDTERM QUESTION #3
POLLY v. DEVIN
DEVIN & CAMP DINKEY v. DILBERT

EXAM PRESENTATION (TOTAL POINTS AVAILABLE = 10)

	Poor		Excellent				
NEATNESS/ORGANIZATION	0	1	2	3	4	5	_____
LAWYER-LIKE	0	1	2	3	4	5	_____

DISCUSSION OF ISSUES (TOTAL POINTS AVAILABLE = 90)

POLLY v. DEVIN

I. FALSE IMPRISONMENT

20 POINTS = FULL DISCUSSION _____
 10 POINTS = PARTIAL DISCUSSION _____

II. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

20 POINTS = FULL DISCUSSION _____
 10 POINTS = PARTIAL DISCUSSION _____

II. DEFENSES TO FALSE IMPRISONMENT & IIED (Consent/Privilege)

10 POINTS = FULL DISCUSSION _____
 7 POINTS = PARTIAL DISCUSSION _____

CAMP DINKEY v. DIBLERT

III. STRICT LIABILITY (Ultrahazardous Activities)

30 POINTS = FULL DISCUSSION _____
 15 POINTS = PARTIAL DISCUSSION _____

VI. DEFENSES TO STRICT LIABILITY (Contrib Neg./Comp. Neg. & Assumption of Risk)

10 POINTS = FULL DISCUSSION _____
 7 POINTS = PARTIAL DISCUSSION _____

TOTAL SCORE:..... _____

1)

Peter v David

In a prima facie case against David, Peter may be able to prove that David is liable for battery, assault, false imprisonment, and intentional infliction of emotional distress, along with negligent infliction of emotional distress.

✓ **Battery**

Battery is voluntary act with the intent to touch another that results in harmful or offensive contact causing harm. *w/out consent or privilege.*

Here, Peter arrived at the show and was near the mosh pit. David, who was participating within the mosh pit, threw himself into the "mosh" participant but missed. This is an instance of transferred intent. While David may have been intending to hit the participant, he instead recklessly hit Peter who was standing nearby. An intentional tort requires a showing of a conscious desire that result would occur, knowledge that result would occur, or knowledge that result is substantially likely to occur. It is substantially likely that even though David did not mean to hit Peter, this action would lead to transferred intent, and his reckless jumping would cause the harmful or offensive contact with another, in this case Peter, which led to both Peter falling to the ground and breaking his arm. David may argue that this act would not cause a broken arm, however, under the egg-shell theory, the individual is taken as they are. Nevertheless, Peter fell to the ground anyways.

*omit
reckless
use
negligence*

(offensive)

Thus, David will most likely be liable for battery.

✓ **Assault**

Assault is a voluntary act with the intent to place plaintiff in imminent apprehension of harmful or offensive contact. *w/out consent or privilege.*

Here, while David was participating in the mosh pit, and because of the large crowd that attended the show, missed the participant. Peter saw David coming towards him. Depending on the nature of his behavior and the level of moshing that he was doing, this would place a reasonable person in imminent apprehension of harmful or offensive contact. David throwing oneself at another would cause the imminent fear of harmful contact because throwing does not imply a gentle push, but rather immediate harm, and by Peter seeing this, he was placed into this position of fear. ✓ good

Thus, David will most likely be held liable for assault.

False Imprisonment N/A

An act or omission with the intent to confine plaintiff to a bounded area that results in actual confinement with no reasonable means of escape with plaintiff being aware of confinement or injury resulting therefrom. ✓

Here, the space was crowded. The capacity for venue was at a max of 100, yet there were 120 concert-goers. Thus, with Peter falling down, and being so near to the moshing crowd, Peter may have been falsely imprisoned if he did show that he had no reasonable means of escape. However, David most likely did not intend to confine Peter to the space on the ground, and Peter, who was not directly within the mosh pit, but only near it, most likely had some means of escape. ✓ yes

Thus, David will most likely not be held liable for false imprisonment.

Intentional Infliction of Emotional Distress N/A

An extreme or outrageous act with the intent to cause severe emotional distress or recklessness with regards to such injuries that results in a physical manifestation of harm.

facts do not support IIED.

Here, David threw himself at another concert-goer. Throwing oneself may be seen as an extreme or outrageous act that would cause someone to experience severe emotional distress. Peter is a teenage boy, and to have a man hail themselves towards a teenage boy could conceivably cause Peter to suffer from emotional distress. Peter broke his arm, and may not be able to return to another heavy metal concert. However, the fact pattern does not give any indication that Peter suffered any emotional distress, just physical harm.

Is it outrageous act at a heavy metal concert?

→ yes - so, not IIED.

Thus, David may not be liable for intentional infliction of emotional distress.

Defenses

Consent

Consent may be an adequate defense if there is an apparent, implied, express consent, but said consent must not go beyond the scope.

good.

Here, Peter was a teenage boy who loved heavy metal concert. He had attended close to 20 in the past. David may argue that Peter consented to this behavior and consented to the actions that resulted from being near a mosh pit because he was aware of the rowdy nature of the crowd. Peter arrived at the concert and noticed that it was really packed, but proceeded anyways. Also, the audience began to participate in the mosh pit, which was a well-known heavy metal audience dance. If Peter was a frequent attendee, he was most likely aware of what a mosh pit was, and could have potentially moved away.

yes

good

Thus, consent may be an adequate defense.

discuss scope of consent was throwing body exceeding scope?

Necessity

N/A

Necessity may arise when there is attempting to avoid harm to oneself. This may be a private or public necessity. With regards to private necessity, the individual will be held liable for damages. Public necessity does not shift liability if to avoid public disaster.

Here, ^{David} Peter may argue that he was simply throwing himself to avoid harm to himself. However, this is typically applied to a trespassing tort and would most likely not succeed.

Thus, necessity will most likely not be an adequate defense.

Defense of Self N/A

Defendant reasonably believed himself in imminent fear of harm. Reasonable force was used. No duty to retreat. Force used would not cause serious harm.

Here, David may argue that he was only acting out of self-defense against the other participant. Mosh pits are violent dance circles that include bodies banging. David may argue that he was simply trying to protect himself against another concert-goer, however, Peter did not place David in this position, and from Peter's point, David was the aggressor.

Thus, this defense would most likely not apply.

Negligence

Negligent Infliction of Emotional Distress

There is a duty to avoid subjecting others to severe emotional distress which may lead to injuries. Negligent ^{ca} infliction of emotional distress requires a showing that the individual breached a ^{a duty of care} ~~general showing of negligence~~, that the plaintiff was within the zone of danger, and that the plaintiff suffered damages.

Here, David had a duty as a reasonable prudent person to avoid causing harm to others within a concert. David may argue that at these events this action was custom, and therefore he upheld the standard, but a reasonable prudent person would not throw themselves at a teenage boy. David's action breached this duty by falling below the standard of a reasonable prudent person. David's action of throwing himself at Peter was both the actual cause, which is the but for cause and proximate cause. But for David throwing

Reasonably prudent metal concert goer.

zone of danger

himself at Peter, Peter would not have fallen and broken his arm. It is foreseeable that throwing oneself at another could cause a direct harm. Peter suffered real damages with a broken arm. Peter may not feel safe going to another heavy metal concert, which he loved.

Thus, David may be held liable for ~~NIED~~: *Negligence*.

✓ Defenses

✓ Contributory Negligence

Redefine

✓

Contributory Negligence applies when plaintiff does not uphold a specific standard of care and places themselves in a position that combines with the defendant's negligent act that causes harm. Typically this is a complete bar to recovery, unless there is a showing of last clear chance, which states that the defendant had the last clear chance to avoid causing harm to plaintiff, but did not. Under last clear chance, there may be a recovery of some damages. *But there was no lcc.*

Here, Peter's actions did not fall below the standard of a reasonable prudent person. David most likely also saw Peter.

Thus, this defense will most likely ~~not work~~ *fail,*

✓ Comparative Negligence

Redefine

Comparative negligence is an act by the plaintiff that falls below the standard of a reasonable prudent person, thus combining with defendant's negligence causing harm. Depending on the jurisdiction, recovery may be either pure or partial. In a pure jurisdiction, not matter the fault, the plaintiff may be able to recover some damages, even if their comparative negligence is 90% while the defendant's is 10%. In a partial

yes

jurisdiction, the plaintiff's actions must not exceed a threshold of typically 49-50% in order to recover for damage.

Here, again, Peter was not negligent in any way.

Thus, this defense would most likely ~~not work~~.

- Peter stood near the mosh pit?

Assumption of Risk

Assumption of risk is either express or implied. Express is a contractual release in which plaintiff is aware of the potential risk of harm and expressly consents to proceed. Implied is when, to a reasonable observer, the plaintiff was aware of the potential risk and took note, but consciously proceeded anyways. There is also primary or secondary. Primary assumption of risk is when the plaintiff was aware of the risk and proceeded. Secondary is when negligence created the risk, but plaintiff was aware and proceeded.

good

yes

Here, David may argue that Peter was aware of the harm that may have occurred in being so near the mosh pit. David may argue that Peter arrived, looked at the size of the crowd and proceeded anyways. Peter was aware of the harm that could occur being so near a mosh pit, being that he had gone to so many.

also P had attended many other metal concerts.

Thus, David may assert assumption of risk.

Conclusion

David will most likely be held liable for battery, assault, intentional infliction of emotional distress, and negligent infliction of emotional distress.

Peter v Catacomb

Duty

NEGLIGENCE (define first)

Duty is the standard of care that one must uphold in order to avoid being held liable for damages. There is a duty owed to all foreseeable victims within the zone of danger. In the *Palsgraff* case, Justice Cardozo states that there is a duty to all foreseeable victims in the zone of danger, as previously stated. Justice Andrews holds the minority opinion which states there is a duty to all foreseeable plaintiffs that may be harmed by negligence--a duty to the world! A defendant must use the reasonable standard of care as to not be held liable for negligence. The standards may be reasonable prudent person, learned hand, custom, negligence per se, and res ipsa loquitur.

2000

(owner/occupier) to public invitee - duty to make safe

Here, Catacomb had a duty to Peter under a duty to care. They received an economic benefit from Peter in that he paid for the show and was expecting to attend. There is also a duty to alleviate consequences by not hiring enough security guards and thus creating a potential hazard.

std. of care or public invitee

✓ Negligence Per Se

There is also a duty under the local ordinance, which states that "all concert venues require two security guards to be present at the event. Any venues who have reached more than 90% capacity at a concert, must hire at least one additional security guard."

Negligence per se states that the statute must protect against the type of harm that occurred and that the harm the plaintiff fell within the type of person meant to be protected. Catacomb may argue that this statute was not meant to protect against this type of harm, however, more security is typically needed to prevent against the harm that may occur onto a patron. Peter was a patron and the security is meant to protect against harm to the concert-goers and harm to the business. There is a duty to Peter under negligence per se.

state rule first

good

Breach

Defendant's acts must fall below the standard of reasonable care or below the standards of a reasonable prudent person in similar circumstances.

✓ Reasonable Prudent Person (*RPP would best be discussed before neg. per se*)

Here, Catacomb breached the duty owed to Peter by the reasonable prudent person standard. A reasonable prudent person, especially an owner of a concert venue, would ensure that there are no more tickets sold than the amount of capacity allowed for a venue. *Reas. owner/occupier to make safe.*

✓ Learned Hand

Here, Catacomb also failed to uphold the learned hand standard, which states that the burden is less than the probability of the harm times the magnitude of loss. As space began to decrease, the moshing crowd ascended on the non-moshing crowd. There is less of a burden to simply place a barrier between those who would want to mosh and those who would not want to. *to prevent the harm.*

✓ Negligence Per Se

OK - stated above

Here, as stated above there is a statute that requires that above a certain security, more security is required. As Catacomb failed to uphold the standard of a reasonable prudent person and the learned hand standard by ensuring that they knew the amount of concert-goers, they also failed to uphold the necessary statute.

✓ Custom

Here, Catacomb may argue that it was custom to place a security guard in the front and in the back, not in the middle. However, as stated above, this is for concerts that have less than 90% capacity. This concert exceeded the 100% capacity, and thus custom would not hold.

Thus, Catacomb breached the duty owed to Peter.

✓ Causation *Causation is the causal link between breach + harm*

Defendant must be both the actual cause and proximate cause of the damages to be held liable.

✓ Actual Cause (But For)

good Here, Catacomb must be the actual cause, or the sine qua non cause. But for [✓] Catacomb failing to check the amount of tickets sold, maintaining capacity, hiring more security guards, and placing barriers, Peter would not have been hurt.

Proximate Cause (Legal Cause)

yes | Here, proximate cause is the foreseeable cause if it is direct. If indirect, it must be the intervening to not break the causal chain. If superseding, it may break the causal chain.

Here, it is foreseeable that not upholding a basic standard of a concert venue, and failing to ensure the safety of the patrons, especially as they are hosting a heavy metal band, in which mosh pits are foreseeable, that the harm would occur. While this is an indirect cause, not directly related to Catacomb, this is an intervening cause, as it occurred because of Catacombs negligence.

Damages

The negligent act must result in real damages to the plaintiff.

Here, Peter broke his arm and suffered because of it.

Negligent Infliction of Emotional Distress

*N/A
facts don't support
- no emotional distress*

There is a duty to avoid subjecting others to severe emotional distress which may lead to injuries. Negligent infliction of emotional distress requires a showing that the individual breached a general showing of negligence, that the plaintiff was within the zone of danger, and that the plaintiff suffered damages.

Here, as shown above, see supra, there is a duty owed to avoid causing harm and shock to an individual. Catacomb breached said duty, see supra, and because of this suffered from damages. Peter may therefore not be able to appreciate going to heavy metal shows and may even be afraid of going to these shows from this point. *> not in fact*

Thus, Catacomb may be liable for negligent infliction of emotional distress.

Defenses

✓ Contributory Negligence

Contributory Negligence applies when plaintiff does not uphold a specific standard of care and places themselves in a position that combines with the defendant's negligent act that causes harm. Typically this is a complete bar to recovery, unless there is a showing of last clear chance, which states that the defendant had the last clear chance to avoid causing harm to plaintiff, but did not. Under last clear chance, there may be a recovery of some damages.

See supra for rule

Here, like with David, Peter was not negligent, and did not in any way contribute to the negligence of Catacomb.

?
P stood in middle of concert, & next to mosh pit.

Thus, this is most likely not an adequate defense.

✓ Comparative Negligence

Comparative negligence is an act by the plaintiff that falls below the standard of a reasonable prudent person, thus combining with defendant's negligence causing harm.

See supra

Depending on the jurisdiction, recovery may be either pure or partial. In a pure jurisdiction, not matter the fault, the plaintiff may be able to recover some damages, even if their comparative negligence is 90% while the defendant's is 10%. In a partial jurisdiction, the plaintiff's actions must not exceed a threshold of typically 49-50% in order to recover for damage.

Here, Peter did ~~not~~ act in a negligent manner, nor did he fail to uphold a specific standard.

P stood next to mask pit + saw large crowd.

Thus, this is most likely not an adequate defense.

✓ Assumption of Risk

again you can say "see supra"

Assumption of risk is either express or implied. Express is a contractual release in which plaintiff is aware of the potential risk of harm and expressly consents to proceed. Implied is when, to a reasonable observer, the plaintiff was aware of the potential risk and took note, but consciously proceeded anyways. There is also primary or secondary. Primary assumption of risk is when the plaintiff was aware of the risk and proceeded. Secondary is when negligence created the risk, but plaintiff was aware and proceeded.

Here, it may be assumed that Catacomb had a disclaimer on the back of the concert ticket, but because this is not explicitly stated in the fact pattern cannot be readily relied upon. However, Peter loved heavy metal concerts. He attended close to 20 and was most likely aware of their nature. Peter arrived at the show, and despite noticing that it was packed, proceeded to enter willingly; he consciously proceeded. Under secondary assumption, negligence did create the risk in making the venue packed, but nevertheless, Peter proceeded. ✓ *yes*

Thus, this may be an adequate defense.

Conclusion

Thus, Catacomb will most likely be held liable for negligence ~~and negligent infliction of~~
~~emotional distress.~~

(91) Excellent job. !!
no need to address issues
if they are clearly not there.
Owner/ Occupier discussion was
needed under P v C
Good use of facts in your
analysis!

TORTS FALL 2022 MIDTERM QUESTION #1
PETER v. DAVID & CATACOMB

ID# _____

EXAM PRESENTATION (TOTAL POINTS AVAILABLE = 10)						
	Poor		Excellent			
NEATNESS/ORGANIZATION	0	1	2	3	4	5
LAWYER-LIKE	0	1	2	3	4	5
						<u>5</u>
						<u>5</u>

DISCUSSION OF ISSUES (TOTAL POINTS AVAILABLE = 90)

PETER v. DAVID

I. BATTERY

20 POINTS = FULL DISCUSSION 19
 10 POINTS = PARTIAL DISCUSSION

II. ASSAULT

20 POINTS = FULL DISCUSSION 19
 10 POINTS = PARTIAL DISCUSSION

III. DEFENSES TO BATTERY AND ASSAULT

5 POINTS = FULL DISCUSSION 4
 2 POINTS = PARTIAL DISCUSSION *Scope*

IV. NEGLIGENCE PRIMA FACIE (Duty, Breach, Causation, Damages)

10 POINTS = FULL DISCUSSION 8
 5 POINTS = PARTIAL DISCUSSION *Causation*

V. DEFENSES TO NEGLIGENCE (Consent & Contrib./Comp. Neg./A of R)

5 POINTS = FULL DISCUSSION 4
 2 POINTS = PARTIAL DISCUSSION

PETER v. CATACOMB

VI. NEGLIGENCE (Duty to Licensee/Invitees, Negligence per Se, Hand Formula)

25 POINTS = FULL DISCUSSION 23
 12 POINTS = PARTIAL DISCUSSION

VII. DEFENSES TO NEGLIGENCE (Consent & Contrib./Comp. Neg./A of R)

5 POINTS = FULL DISCUSSION 4
 2 POINTS = PARTIAL DISCUSSION

TOTAL SCORE:..... 91

2)

Prissy v Derrick

NIA

Intentional Infliction of Emotional Distress

An extreme or outrageous act with the intent to cause severe emotional distress or recklessness with regards to such injuries that results in a physical manifestation of harm.

Here, Derrick walking up to the table is neither extreme nor outrageous. Derrick's action also did not have the intent to cause severe emotional distress.

yes - so omit IIED

Thus, Derrick will most likely not be liable for intentional infliction of emotional distress.

✓ Trespass to Chattel

Trespass to chattel is a voluntary act with intent that interferes with plaintiff's possessory interest in ^{tangible} moveable property.

Here, Derrick did not have the requisite intent that was required to interfere with Prissy's property, or anything that may have been knocked over.

chat about Puff n stuff?

?

any physical contact or dispossession?

NIA

Conversion

An act ^{done with} or omission with intent to assert control over ^{tangible} moveable property that in fact belongs to plaintiff that results in substantial injury to the property.

Here, the harm to the table, if there was any lasting impact, along with any harm to Puff n Stuff could be considered conversion depending on the lasting damages that occurred because of Derrick's actions. The facts do not state if any lasting harm occurred to either, and actually state that Puff n Stuff was unharmed.

yes no long term harm still

Thus, Derrick may be liable for harm to the table if there is found to be any.

✓ OK.

Defenses

✓ Consent

Consent may be an adequate defense if there is an apparent, implied, express consent, but said consent must not go beyond the scope.

Here, Derrick may argue that Prissy consented to the action of him walking up to look at Puff n Stuff. However, there is most likely not consent to conversion.

Thus, consent would most likely not be an adequate defense.

Negligence - Define first

Duty

Did D exceed
scope of consent
by approaching
the dog?

Duty is the standard of care that one must uphold in order to avoid being held liable for damages. There is a duty owed to all foreseeable victims within the zone of danger. In the *Palsgraff* case, Justice Cardozo states that there is a duty to all foreseeable victims in the zone of danger, as previously stated. Justice Andrews holds the minority opinion which states there is a duty to all foreseeable plaintiffs that may be harmed by negligence--a duty to the world! A defendant must use the reasonable standard of care as to not be held liable for negligence. The standards may be reasonable prudent person, learned hand, custom, negligence per se, and res ipsa loquitor.

Here, Derrick has a duty to control his animals and also a duty to warn. A reasonable prudent person would not bring a wild grey wolf and german shepherd mix to a dog show. Derrick also had a duty not to disturb other dogs or their owners.

Thus, Derrick had a duty to control Thor.

Breach

Defendant's acts must fall below the standard of reasonable care or below the standards of a reasonable prudent person in ^{same or} similar circumstances. ✓ nice

Here, Derrick did not act as a reasonable prudent person by bringing his ^{wolf} dog to a ^{domestic} dog show. Derrick approached the stand of Puff n Stuff, breaching the standard of a reasonable prudent person and by not upholding the rule that was in place. ~~This is not negligence per se as it is not a statute by the government.~~ However, Derrick still breached the standard that was required of him. Also, under learned hand, or the probability times the magnitude of loss, it is most likely less of a burden to put a muzzle on a dog that may bite, than it is to leave the dog as is.

Thus, there is a breach of duty owed.

or just not approach other dogs if possible.

Causation

Defendant must be both the actual cause and proximate cause of the damages to be held liable.

Actual Cause (But For)

Here, under the actual cause, or the "but for" cause, but for Derrick approaching Puff n Stuff when he was not supposed to, along with bringing along a dangerous dog to a show, the harm that occurred, which is the missed competition, which may include money, along with Prissy's fainting, the harm would not have occurred.

Proximate Cause (Legal Cause)

Here, under proximate cause, there must be a showing of foreseeability. If the action is direct then it is foreseeable. If it is indirect, it may be intervening or superseding.

Here, it is foreseeable that walking a big wolf dog up to a poodle would cause a disturbance. It is also foreseeable that dogs barking at each other would cause the one on _____

the stand to fall. While it is an indirect cause that the dog competition would be missed and that Prissy would faint, this is still an intervening cause which would not break the causal chain.

Damages

The negligent act must result in real damages to the plaintiff.

Here, Prissy suffered from fainting and missing the dog show, which could bring money.

Negligent Infliction of Emotional Distress

There is a duty to avoid subjecting others to severe emotional distress which may lead to injuries. Negligent infliction of emotional distress requires a showing that the individual breached a general showing of negligence, that the plaintiff was within the zone of danger, and that the plaintiff suffered damages.

Here, as stated above, Derrick has a duty to avoid causing severe emotional distress to others. Derrick breached the duty by approaching a poodle, who are typically also known for their unkind disposition, and caused Prissy to faint. Suffering in health, Prissy and Puff could not compete. Prissy may also have trouble attending other dog shows, as the thought of fainting again. This emotional distress could be lasting.

Thus, Derrick may be liable for negligent infliction of emotional distress.

Defenses Contributory Negligence

Contributory Negligence applies when plaintiff does not uphold a specific standard of care and places themselves in a position that combines with the defendant's negligent act that causes harm. Typically this is a complete bar to recovery, unless there is a showing of last clear chance, which states that the defendant had the last clear chance to avoid

causing harm to plaintiff, but did not. Under last clear chance, there may be a recovery of some damages.

Here, when Puff was not being walked or groomed, she was supposed to be held in a wire crate. Prissy realized she had run out of white powder and spotting a local vendor 50 feet away, left Puff unattended. Prissy left Puff tied to the table with only a slim neck harness. Thus, if an individual were to approach, would not be able to prevent against future harm. If Derrick asserts this claim, Prissy may be barred from all recovery. However, Derrick also had the last clear chance to avoid approaching Puff on the table, who again was a poodle.

Has to involve 3 acts (separate) then 1) Has to be neg. act by Δ, who then 2) asserts CIN, or TT + then 3) P claims LCC on

Thus, Derrick will most likely not be able to claim complete contributory negligence.

✓ Comparative Negligence

Comparative negligence is an act by the plaintiff that falls below the standard of a reasonable prudent person, thus combining with defendant's negligence causing harm. Depending on the jurisdiction, recovery may be either pure or partial. In a pure jurisdiction, not matter the fault, the plaintiff may be able to recover some damages, even if their comparative negligence is 90% while the defendant's is 10%. In a partial jurisdiction, the plaintiff's actions must not exceed a threshold of typically 49-50% in order to recover for damage.

Pure

Here, in a pure jurisdiction, Prissy's actions may still warrant recovery for the percentage of negligence that Derrick committed. While Prissy was supposed to place Puff in a wire crate, she was only running a mere 50 feet away. Whether or not this is conclusive to establish who was more negligent, Prissy will still be able to recover.

Partial

Here, in a partial jurisdiction, a determination by the fact finder is needed to determine whether or not Prissy is more at fault or Derrick. As stated in pure, Prissy did not put Puff back into a wire crate, and furthermore, she left Puff with only a small neck harness.

Thus, if it is determined that Prissy is more at fault, exceeding the 50% threshold, she may not recover.

Thus, Derrick may assert comparative negligence.

✓ Assumption of Risk

Assumption of risk is either express or implied. Express is a contractual release in which plaintiff is aware of the potential risk of harm and expressly consents to proceed. Implied is when, to a reasonable observer, the plaintiff was aware of the potential risk and took note, but consciously proceeded anyways. There is also primary or secondary. Primary assumption of risk is when the plaintiff was aware of the risk and proceeded. Secondary is when negligence created the risk, but plaintiff was aware and proceeded.

Here, while there was no express assumption of risk. A reasonable observer may conclude that Prissy was aware of what she was doing, and the harm that could occur, by not placing Puff back in the crate and leaving her tied up at a dog show, where other dogs would be at with their owners, some of whom were not participants but merely onlookers. The reasonable observer could assert that Prissy knew of the potential harm, and yet proceeded.

+ She was a prof. dog handler
& should be aware of risk.

✓ Strict Liability

Strict liability includes conversion, animals, and abnormally dangerous activities. An individual is strictly liable despite their attempts to act with due caution.

good

When it comes to animals, a strict liability showing requires whether the dog was wild, or whether there was a known propensity, if there is no known propensity, a showing of general negligence is required.

great

Here, Derrick may argue that Thor is a wolf-dog, meaning that Thor is a mix of both wolf and dog. Therefore, not necessarily wild, being that it had existed for over 70 years and kept as farm dogs in Europe, so a conclusion may be made that this wild instinct has been bred out of the dog. However, German shepherds can also be seen as a mean dog with a known propensity for biting, or at least heightened protection, this combined with a wolf-dog could show a normal propensity to lunge or bite. Nevertheless, if this is not a known propensity, and it is found that this propensity to bite or lunge is abnormal, there is the required showing of whether or not Derrick knew of this propensity. If he knew, he may be found to be strictly liable, if he did not know a showing of negligence is required.

Excellent

Under strict liability, there is not requirement to show duty and breach. However if unknown and abnormal, Derrick had a duty to all those who could foreseeably be harmed by the actions of their animal. Derrick had a duty to avoid approaching the dogs in the show or the owners. Derrick breached this duty by approaching and not upholding the learned hand formula or reasonable prudent person standard.

Actual Cause (But For)

Here, but for Derrick bringing his wolf dog to a dog show and approaching the table, the harm to Prissy would not have occurred.

Thus, Derrick is the actual cause.

Proximate Cause (Legal Cause)

See supra

Here, it is foreseeable that bringing a dog that is a breed of wolf and german shepherd and approaching a poodle could cause an altercation.

Thus, Derrick is the proximate cause.

Contributory Negligence

Contributory Negligence applies when plaintiff does not uphold a specific standard of care and places themselves in a position that combines with the defendant's negligent act that causes harm. Typically this is a complete bar to recovery, unless there is a showing of last clear chance, which states that the defendant had the last clear chance to avoid causing harm to plaintiff, but did not. Under last clear chance, there may be a recovery of some damages.

Here, contributory negligence is not a defense to strict liability. (it can be if it assumed risk knowingly)

Thus, this is most likely not an adequate defense.

Comparative Negligence

Comparative negligence is an act by the plaintiff that falls below the standard of a reasonable prudent person, thus combining with defendant's negligence causing harm. Depending on the jurisdiction, recovery may be either pure or partial. In a pure jurisdiction, no matter the fault, the plaintiff may be able to recover some damages, even if their comparative negligence is 90% while the defendant's is 10%. In a partial jurisdiction, the plaintiff's actions must not exceed a threshold of typically 49-50% in order to recover for damage.

Here, as stated above, see supra, Prissy left Puff unattended and outside of her crate. In a pure jurisdiction, Prissy will be able to recover despite her comparative negligence. In a partial jurisdiction, the fact finder must determine if Prissy's actions are found to be more

negligent and thus exceeding the 49-50% threshold. It is more likely that the fact finder will determine that bringing a dangerous dog breed to a dog show, with dogs of all shapes and sizes, could start an altercation.

Thus, Derrick's contributory negligence will most likely exceed Prissy's.

Assumption of Risk

Assumption of risk is either express or implied. Express is a contractual release in which plaintiff is aware of the potential risk of harm and expressly consents to proceed. Implied is when, to a reasonable observer, the plaintiff was aware of the potential risk and took note, but consciously proceeded anyways. There is also primary or secondary. Primary assumption of risk is when the plaintiff was aware of the risk and proceeded. Secondary is when negligence created the risk, but plaintiff was aware and proceeded.

Here, as stated above in assumption, see supra, Prissy may have assumed the risk of leaving her dog unattended, but she did not assume the risk of a Czechoslovakian wolf dog approaching Puff. Especially being that no one was meant to approach the dogs and their owners if a non-showing dog.

Thus, Derrick may be found to be strictly liable for the damage that occurred to Prissy.

✓ Conclusion

Derrick may be found to be liable for the damage that occurred to Prissy, being the missed dog show and the health impact.

(95) Excellent.

TORTS FALL 2022 MIDTERM QUESTION #2
PRISSY v. DERRICK

ID# _____

<u>EXAM PRESENTATION (TOTAL POINTS AVAILABLE = 10)</u>							
	Poor		Excellent				
NEATNESS/ORGANIZATION	0	1	2	3	4	(5)	<u>5</u>
LAWYER-LIKE	0	1	2	3	4	(5)	<u>5</u>

DISCUSSION OF ISSUES (TOTAL POINTS AVAILABLE = 90)

PRISSY v. DERRICK

I. NEGLIGENCE INFLICTION OF EMOTIONAL DISTRESS
(Duty, Breach, Causation, Damages)

30 POINTS = FULL DISCUSSION 30
15 POINTS = PARTIAL DISCUSSION

II. DEFENSES TO NEGLIGENCE (Contrib./Comp. Neg./A of R)

15 POINTS = FULL DISCUSSION 14
7 POINTS = PARTIAL DISCUSSION

leaving to get white powder

III. STRICT LIABILITY (Wild Animals v. Domestic Animals)

20 POINTS = FULL DISCUSSION 20
10 POINTS = PARTIAL DISCUSSION

IV. DEFENSES TO STRICT LIABILITY (Assumption of Risk)

10 POINTS = FULL DISCUSSION 10
5 POINTS = PARTIAL DISCUSSION

V. TRESPASS TO CHATTEL

10 POINTS = FULL DISCUSSION 7
5 POINTS = PARTIAL DISCUSSION

physical contact dispossession

VI. DEFENSES TO INTENTIONAL TORTS (Consent/Privilege)

5 POINTS = FULL DISCUSSION 4
2 POINTS = PARTIAL DISCUSSION

more on scope

TOTAL SCORE:..... 95

3)

Polly v. Devin

✓ **False Imprisonment**

The intentional act of confining another ^{to a bounded area} with no means of escape in a manner that is unreasonable and for an unreasonable amount of time. Plaintiff becomes aware of their confinement or injury results from the confinement. *w/out consent or privilege.*

START HERE Polly and Devin were not allowed in Camp Dinkey's walk-in freezer, but after dinner they decided to sneak into the walk-in freezer to grab some ice cream. Devin was the first to exit the freezer and proceeded to shut the freezer door and locked it from the outside with Polly still inside the freezer. ^{int'lly} Devin confined Polly to a closed off and dangerous space where Polly did not have any means of escape. The manner in which Devin confined Polly was unreasonable due to the fact that she locked Polly inside from the outside and left her in that situation, ~~as she went off to finish her ice cream and ultimately fall asleep forgetting that she had locked Polly inside the freezer.~~ *no need to rec facts* One could argue that the amount of time that Polly was inside the freezer was not unreasonable, however, it needs to be made aware that Polly was in a freezer where temperatures drop to a dangerous level. If Polly had not been able to find a spare knife, her confinement in the freezer could have been fatal. Arising from this incident, Polly had to desperately find a means to escape, alluding to her knowledge that she was trapped in that freezer. *Knife*

✓ **Intentional Infliction of Emotional Distress**

Extreme and outrageous conduct done with the intention to cause a severe emotional distress where physical manifestations may present themselves to establish emotional distress.

locking someone in freezer is extreme & outrageous

Devin's conduct of locking Polly in the freezer was both extreme and outrageous as she fully intended to scare Polly or even cause harm to her by confining her to that space. As a result of the confinement, Polly developed a phobia towards ice cream. The confinement in the cold, dark claustrophobic space caused Polly to suffer an emotional trauma. Now, Polly may be triggered into a severe panic and anxiety at the sight of a freezer and ice cream because of what Devin subjected her to in the attempt to play a joke on her.

also extreme is going to bed

Negligent Infliction of Emotional Distress *OK- but told not to discuss Negligence*

Defendant has a duty to not subject others to severe emotional distress where it can foreseeably result in physical injury or harm.

Devin owed a duty to Polly to not subject her to emotional distress by locking her in a freezer in an attempt to play a joke on her. By subjecting Polly to the freezing temperatures, Devin subjected Polly to a trauma and phobia towards ice cream. It should have been foreseeable to Devin that by subjecting Polly to a traumatizing experience, that physical injury or harm could have been foreseeable. In this case, the physical injury or harm to Polly was a phobia of ice cream.

Trespass *N/A*

Unwarranted entry onto the property of another even if by mistake

Would apply if this was an action from the Camp towards the girls.

Defenses to Intentional Harms

✓ **Consent**

The plaintiff consented expressly by their actions or their words, or there was an implied consent provided by the circumstances, the condition, or the event.

good

It is well known that Polly and Devin had a history of playing jokes and pranks together, either to themselves or other campers. The two girls had also planned to go into the walk-in freezer together knowing that they were not allowed into the freezer. More than likely, the reason they were prohibited from entering into the walk-in freezer was to prevent incidents like the one between the two girls.

age of Devin?

~~Necessity~~ N/A

→ scope? Does locking in a freezer (fatal) exceed scope of privilege.

Privilege to violate property rights to prevent harm or escape an emergency.

Applicable if this cause of action was between the Camp and the girls. Polly would be liable for the damage to the freezer door even if she needed to damage it to escape.

Camp Dinkey v. Dilbert

Strict Liability - Abnormally Dangerous Activity

When one maintains a condition or activity that is abnormally dangerous and that activity creates a substantial risk of causing harm if it were to escape and that harm can foreseeably be recognized due to the activity or condition being one that is not common or normally done in the area, Defendant will be strictly liable for harm that results even if they took reasonable care to prevent harm from occurring.

Excellent

In the present case, Dilbert, a local resident who lived near Camp Dinkey was manufacturing methamphetamine in a lab he had constructed in the RV he was living in. The ingredients that Dilbert used to cook his meth consisted of highly explosive chemicals. The cooking gave off toxic fumes that would incapacitate Dilbert and render him unconscious. This resulted in the stove that was cooking the meth to reach a high temperature that would set off an explosion. The fire spread around the RV and created a

you don't need to recite facts

toxic smoke that spread into nearby cabins which would cause campers to choke and cough on the toxic smoke which led to severe lung distress and hospitalization of many of the campers. In *Ryland v. Fletcher*, it was established that ultrahazardous activities that pose a substantial risk of causing harm especially if those conditions or activities of a dangerous nature were to escape, would hold the one responsible for creating that situation strictly liable because it should have been known to them that that activity or condition that they brought onto their land would foreseeably pose a substantial risk of harm even if they took all reasonable steps towards preventing that harm from occurring. Here, a meth lab in of itself, is extremely dangerous especially when dealing with highly explosive chemicals and toxic fumes. Camp Dinkey is holding Dilbert strictly liable for the harm caused to the nearby area and the campers because the operation of a meth lab near a summer camp is not ordinary, it is foreseeable that if any of the explosives or toxic fumes escaped to the nearby camp that it would result in harm, and that the likelihood of harm resulting if the conditions of the meth lab were to escape are substantial. Not only did the toxic smoke pose a threat to the campers and the camp, but also the risk of the explosion reaching them, or even the same toxic fumes that had knocked out Dilbert. All of these are conditions and activities that Dilbert's meth lab, even if he took some reasonable care of preventing those conditions from escaping, posed a substantial threat to the campers nearby and the area around the RV in the event that abnormally dangerous activity escaped, as it did in the case before us.

✓ Defenses to Strict Liability

✓ Assumption of Risk

Plaintiff has a knowledge and understanding of the risks involved and voluntarily subjects themselves to that risk of harm.

The campers who were subjected to the toxic smoke could not navigate in the dark due to the camp's main light switch being turned off leading to them not being able to prop open

windows in order to allow for the cabin to ventilate. The camp staff had switched the main light off every night, closed doors, and allowed for some campers to close the small windows in the cabins. The risks from not being able to navigate in the dark to escape or open windows, not have proper ventilation, or have larger windows to allow for easier escape in the event of an emergency, were taken by the camp. They assumed the risk that the campers would not need to navigate in the dark, they assumed the risk that the door and some windows should be closed, and they assumed the risk of not having multiple means of escape for the campers in the event of an emergency. Camp Dinkey had a knowledge of the cabin's situation and layout and allowed for the campers to stay in those conditions knowing that in the event of an emergency, it could potentially dangerous to those inside.

✓ Comparative Negligence

Plaintiff contributes to the harm and a jury weighs the fault of each party involved in a pure or partial system.

Camp Dinkey staff had noticed odd behavior from Dilbert but brushed him off as being a "hillbilly" who lived in the woods. They had a duty to care for the safety of the campers, as well as the grounds around the camp, in order to prevent any harm from occurring. Even though Dilbert did most of his cooking after midnight, after the staff of the camp had been made aware of off behavior from a man who was residing at a close proximity to the camp, they should have diligently made an effort to investigate the "odd behavior" that they described in an effort to keep the camp and campers safe from potential harm. In this case, the staff can be held comparatively at fault for the harm that resulted to the campers because they did not do enough to investigate the odd behavior by Dilbert or identify a fully operational meth lab nearby their camp's grounds that could pose a substantial threat to their campers and camp if the dangerous circumstances it created were to escape.

(90) Excellent !!

END OF EXAM

(90) Excellent

TORTS FALL 2022 MIDTERM QUESTION #3
POLLY v. DEVIN
DEVIN & CAMP DINKEY v. DILBERT

ID: _____

<u>EXAM PRESENTATION (TOTAL POINTS AVAILABLE = 10)</u>						
	Poor		Excellent			
NEATNESS/ORGANIZATION	0	1	2	3	4	5
LAWYER-LIKE	0	1	2	3	4	5
						<u>5</u>
						<u>5</u>

DISCUSSION OF ISSUES (TOTAL POINTS AVAILABLE = 90)

POLLY v. DEVIN

I. FALSE IMPRISONMENT

20 POINTS = FULL DISCUSSION 18
 10 POINTS = PARTIAL DISCUSSION _____

II. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

20 POINTS = FULL DISCUSSION 18
 10 POINTS = PARTIAL DISCUSSION _____

III. DEFENSES TO FALSE IMPRISONMENT & IIED (Consent/Privilege)

10 POINTS = FULL DISCUSSION 8
 7 POINTS = PARTIAL DISCUSSION _____ *scope*

CAMP DINKEY v. DILBERT

III. STRICT LIABILITY (Ultrahazardous Activities)

30 POINTS = FULL DISCUSSION 27
 15 POINTS = PARTIAL DISCUSSION _____

VI. DEFENSES TO STRICT LIABILITY (Contrib Neg./Comp. Neg. & Assumption of Risk)

10 POINTS = FULL DISCUSSION 9
 7 POINTS = PARTIAL DISCUSSION _____

TOTAL SCORE:..... 90