

MONTEREY COLLEGE OF LAW
HYBRID
TORTS SEC. 1 & 2
MIDTERM EXAMINATION
FALL 2025
PROF. L. HOLDER

General Instructions:

Answer Three (3) Essay Questions

Total Time Allotted: Three (3) Hours

QUESTION 1

Jordan owns a small art gallery in downtown Santa Barbara. One afternoon, Taylor, a local street performer, set up a loudspeaker and began performing directly outside Jordan's gallery entrance. Concerned about the noise disturbing patrons, Jordan stepped outside and politely asked Taylor to move down the street. Taylor looked Jordan in the eye, made an offensive hand gesture involving the middle finger, and continued performing.

Angered, Jordan yelled, "If you don't move, you'll regret it!" Jordan grabbed a broom and swung it toward Taylor, stopping just short of contact. Taylor flinched and stumbled backward. Seconds later, Jordan grabbed Taylor's speaker and threw it into the street, damaging it. Distraught because Taylor's sole income is tips from street performing, Taylor collapsed to the ground, sobbing.

Meanwhile, Alex, a passerby who witnessed the broom incident, and believing Taylor was in danger, rushed over and tackled Jordan to the ground. Jordan suffered a sprained wrist.

Discuss the intentional tort claims that may be asserted by Jordan and Taylor and appropriate defenses.

QUESTION 2

SB Transit Co. operates a city bus line in Santa Barbara. One afternoon, Dana, a bus driver employed by SB, was running behind schedule. Dana was chatting with a regular passenger, Paula, who was standing in front of the white line of the moving bus. A sign was posted: "Notice, state law prohibits passengers from standing forward of white line while bus is in motion." The purpose of the law was to avoid passengers blocking the driver's view of the interior of the bus.

While approaching an intersection, Dana glanced at her phone to check the next stop and failed to notice the light had turned red. The bus entered the intersection and collided with a delivery van.

The impact caused the bus passengers to be thrown about. Paula was thrown into the farebox and broke her arm. Dana helped Paula off the bus but left her on the asphalt in the intersection next to the bus's door while Dana called dispatch.

Meanwhile, Riley, a passerby, saw the crash and rushed into the intersection to pull Paula away from the bus when Riley saw a large rear-view mirror about to fall off the bus and hit Paula. Instead of the mirror hitting Paula, Riley was struck by the falling mirror and suffered a concussion.

Discuss the potential negligence claims by Paula and Riley, and appropriate defenses.

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QUESTION 3

Tuckers Grove is a quiet residential neighborhood located near the edge of Santa Barbara. Apex Blasting Co. recently obtained a permit to conduct weekly dynamite blasting at a nearby quarry to extract stone for a highway project. The blasting produces loud concussions, vibrations, and occasional clouds of dust that drift into the Tuckers Grove neighborhood.

Tuckers Grove resident Nora works from home. Nora claims the constant vibrations make it impossible to concentrate and have cracked the walls of her house.

The City of Santa Barbara has received hundreds of complaints from residents about dust and noise, and is considering whether to bring an action against Apex Blasting Co. on behalf of the public.

Apex argues that it is operating with all required permits, that blasting is essential for public infrastructure, and that residents “knew or should have known” the quarry was nearby when they moved in.

Discuss the potential nuisance and ultrahazardous/abnormally dangerous activities claims by Nora and Santa Barbara, and appropriate defenses.

ANSWER OUTLINE

Torts Sections 1 & 2

Fall 2025

Prof. L. Holder

– Intentional Torts (One Hour)

Issue Outline – Torts Midterm (Intentional Torts & Defenses)

I. Taylor v. Jordan

A. Assault

- Did Jordan's broom swing cause reasonable apprehension of imminent harmful contact?

B. Trespass to Chattels

- Did Jordan intentionally interfere with Taylor's speaker, causing damage?

C. Conversion

- Was Jordan's speaker interference serious enough to justify full value damages?

D. Intentional Infliction of Emotional Distress (IIED)

- Was Jordan's conduct extreme and outrageous?
- Did Taylor suffer severe emotional distress?

Defenses:

- Consent: Did Taylor consent to Jordan's conduct?
- Self-Defense: Was Jordan responding to a perceived threat?
- Necessity: Was Jordan protecting property or business interests?

II. Jordan v. Alex

A. Battery

- Did Alex intentionally cause harmful contact by tackling Jordan?

Defense:

- Defense of Others: Did Alex reasonably believe Taylor was in imminent danger?

Torts Midterm Essay Question – Negligence (One Hour)

Issue Outline – Negligence Midterm (Metro Transit)

I. Paula v. Dana / Metro Transit Co.

A. Negligence (Bus Collision)

- **Duty:** Common carrier owes heightened duty of care to passengers.
- **Breach:** Negligence per se; Dana ran red light while distracted by phone.
- **Causation:** Collision caused Paula's broken arm.
- **Damages:** Physical injury.

B. Negligence (Post-Accident Conduct)

- **Special Duty:** Common carrier's duty to render aid to injured passengers.
- **Breach:** Leaving Paula on asphalt in intersection may be unreasonable.
- **Causation/Damages:** Exposed Paula to further risk of harm.

C. Vicarious Liability

- Metro Transit liable for Dana's negligence under respondeat superior (employee acting within scope of employment).
- Government claim requirements.

II. Riley (Rescuer) v. Dana / Metro Transit Co.

A. Negligence

- **Duty:** Tortfeasors owe a duty of care to potential rescuers.
- **Rescuer Doctrine:** "Danger invites rescue" – rescuers are foreseeable plaintiffs.
- **Breach:** Dana's negligence created peril to Paula, prompting Riley's rescue.
- **Causation:** Falling mirror injured Riley during rescue attempt.
- **Damages:** Concussion.

B. Vicarious Liability

- Metro Transit liable for Dana's negligence that set rescue in motion.

III. Defenses

- **Comparative Negligence:** Paula's conduct standing in front of the line?
- **Assumption of Risk:** Riley knowingly entered danger zone, but rescuer doctrine generally bars this defense against rescuers.
- **Employer Defenses:** Metro may argue frolic/detour, but Dana acting within scope.

IV. Damages

- **Paula:** Broken arm, possible additional harm from being left in intersection.
- **Riley:** Concussion, medical expenses, lost wages.
- **Metro Transit:** Exposure to compensatory damages through vicarious liability.

Torts Midterm Essay Question – Nuisance & Abnormally Dangerous Activities (One Hour)

Issue Outline – Nuisance & Abnormally Dangerous Activities (Apex Blasting Co.)

I. Nora v. Apex Blasting Co.

A. Private Nuisance

- **Substantial interference** with use/enjoyment of land (noise, vibrations, dust).
- **Unreasonable interference** balancing utility of blasting vs. harm to Nora.
- **Damages:** Cracked walls, inability to work from home.

B. Strict Liability – Abnormally Dangerous Activity

- **Restatement factors:**
 1. High degree of risk of harm (blasting).
 2. Likelihood of great harm (structural/property damage).
 3. Inability to eliminate risk with reasonable care.
 4. Activity not common in community.
 5. Inappropriateness of location (residential area).
 6. Value to community vs. danger.
- **Damages:** Property damage + loss of use.

II. City of Santa Barbara v. Apex Blasting Co.

A. Public Nuisance

- **Unreasonable interference with rights common to the public** (noise, dust, vibrations affecting many residents).
- **Standing:** City may sue on behalf of residents.
- **Damages:** Municipal costs of responding to complaints, community disruption.

B. Strict Liability – Abnormally Dangerous Activity

- City may assert claims for widespread harm caused by blasting.
- **Damages:** Costs of mitigation, enforcement, and representing public harm.

III. Defenses for Apex

- **Permit compliance:** Not a defense to nuisance or strict liability.

- **Public benefit:** May reduce nuisance liability under balancing test, but not strict liability.
- **Coming to the nuisance:** Limited defense; unlikely to bar claims.
- **Assumption of risk:** Only if plaintiffs knowingly and unreasonably exposed themselves (not shown here).

V. Conclusion

- **Nora:** Strong claims under both nuisance and strict liability.
- **City:** Valid public nuisance claim; strict liability bolsters case for community-wide harm.
- **Apex:** Defenses weak; blasting is classic abnormally dangerous activity.

1)

TAYLOR V. JORDAN

Assault

Issue: Is Jordan liable to Taylor for Assault

Rule: Assault is an act intending to cause a reasonable apprehension of immediate harmful or offensive contact, and causes such apprehension in the plaintiff. Words alone are insufficient.

Analysis: Here Jordan yelled at Taylor and stated "if you don't move, you will regret it" and grabbed a broom and swung it at Taylor. Taylor even flinched and fell backward. Jordan's threatening language, combined with the physical **contact**, would make a reasonable person think they are about to be harmed. Taylor's reaction proved that he believed he was about to be harmed when he flinched. Jordan clearly intended to cause Taylor fear so he could move.

Conclusion: Jordan is liable for Assault against Taylor.

Battery

Issue: Is Jordan liable to Taylor for battery?

Rule: Battery is an intent to cause harmful or offensive contact, and the harmful contact actually occurs.

Analysis: Here, Jordan swung the broom at Taylor but stopped short of physical contact. Because no physical contact occurred, that element is missing. The facts do not state that Taylor's speaker was in his hand. If they did, Jordan would be liable for battery against Taylor as battery can include the touching of an extension of someone, i.e. if Jordan snatched the speaker and threw it then he may be liable for battery.

Conclusion: Jordan is not liable for battery.

Trespass to Chattel

Issue: Is Jordan liable for Trespass to chattel?

Rule: Trespass to chattel occurs when a defendant intentionally interferes with a plaintiff's personal property.

Analysis: Jordan intentionally grabbed Taylor's speaker and threw it into the street. This was a direct interference with Taylor's possessions and the speaker became damaged. The interference was substantial enough to cause harm to the chattel.

Conclusion: Jordan is liable for trespass to chattel.

Conversion

Issue: Is Jordan liable for conversion?

Rule: Conversion is an intentional exercise of dominion or control over another's chattel that so seriously interferes with the owner's rights.

Analysis: Here, Jordan took Taylor's speaker and threw it into the street, damaging it. A speaker is essential to Taylor's livelihood. The act destroyed the speaker and caused it to be no longer able to be used. The seriousness of the act, the intent and the damage support a conversion claim for Taylor.

Conclusion: Jordan is liable for conversion.

Intentional Infliction of Emotional Distress

Issue: Is Jordan liable for IIED?

Rule: IIED requires extreme conduct, intent or recklessness, severe emotional distress.

Analysis: Here, Jordan threatened Taylor with violence, swung at him, and destroyed his means of income. Destroying Taylor's speaker on the street, knowing he was a street artist, was very intentional. The idea of knowing you might lose your means to support oneself could ruin a person and cause severe stress. Here, Taylor demonstrated that when he collapsed to the ground and sobbed. Jordan exhibited severe disregard for Taylor's well-being, which was extreme, intentional and reckless when he performed the acts in question.

Conclusion: Jordan is liable for IIED.

JORDAN V. TAYLOR

Assault

Issue: Is Taylor liable to Jordan for assault?

Rule: Assault is an act intending to cause a reasonable apprehension of immediate harmful or offensive contact, and causes such apprehension in the plaintiff. Words alone are insufficient.

Analysis: Taylor made offensive hand gestures at Jordan. He did not say anything more, threaten, or make any physical contact. There was no indication Taylor intended physical harmful contact.

Conclusion: Taylor is not liable for assault.

ALEX V. JORDAN

Battery

Issue: Is Alex liable to Jordan for battery?

Rule: Battery is an intent to cause harmful or offensive contact, and the harmful contact actually occurs.

Analysis: Here, Alex intentionally tackled Jordan, causing physical injury. This satisfies the element of battery, unless privilege is present.

Conclusion: Alex is liable for battery unless he can prove a defense.

DEFENSES

Defense of Others

Issue: Can Alex claim his defense is for the defense of others?

Rule: A person can use reasonable force to defend another if the person reasonably believes the other

is in danger.

Analysis: Here, Alex witnessed Jordan threaten Taylor and then swing a broom. Taylor flinched and stumbled. Any reasonable person could believe Taylor was in danger.

Conclusion: Alex is likely not liable under the defense of the defense of others.

Self Defense

Issue: Can Jordan claim self defense against Taylor?

Rule: A person may use reasonable force in self defense if they are in imminent danger by another.

Analysis: Here. Jordan was the aggressor. Taylor was not. Taylor did not use or threaten to use physical force against Jordan. Jordan swung the broom first. a reasonable person would not believe his force was necessary just because Taylor flipped him off.

Conclusion: Jordan's self defense argument fails.

Defense of Property

Issue: Can Jordan claim defense of property?

Rule: A property owner can use reasonable force to protect property but may not use force that threatens serious bodily harm.

Analysis: Swinging a broom at a person and destroying Taylor's speaker exceeds reasonable force to protect his property, Jordan could have pursued legal and lawful measures instead. Jordan could have called the cops or took Taylor to Court. It is not good for society if everyone was allowed to answer their disputes with violence.

Conclusion: Jordan's defense of property argument fails.

Final:

Jordan is liable to Taylor for: Assault, conversion, trespass to chattel and most likely IIED. Not Battery

Taylor is not liable to Jordan.

Alex committed a battery tort against Jordan but was justified because he was defending others in need, in this case Taylor

Jordan likely cannot invoke any defenses.

2)

Paula v. Dana/SB Transit Co. ("Bus Company")

Whether Paula, a regular passenger on the bus, can recover for negligence arising out of the bus crash and the falling rear-view mirror.

Negligence

To establish a prima facie case for negligence, the following elements must be proven:

- (1) The existence of a duty on the part of the defendant to conform to specific standard of conduct for the protection of the plaintiff against an unreasonable risk of injury;
- (2) Breach of that duty by the defendant;
- (3) That the breach of duty by the defendant was the actual and proximate cause of the plaintiff's injury; and
- (4) Damage to the plaintiff's person or property.

Duty

Reasonable Person Standard: Defendant's conduct is measured against the reasonable, ordinary, prudent person.

A Common Carrier: A common carrier such as a bus driver, owes the passengers a heightened duty of care, requiring the utmost care reasonably practicable under the circumstances. This includes duties of safe operation, inspection, maintenance, and repair of the vehicle and its equipment.

Here, Paula was a passenger on the bus at the time of the crash. As such, the bus driver, Dana, and bus company owed Paula a heightened duty of care while she was on the bus. This duty is extended not only to the operation of the bus but also ensuring the bus driver safely obeys traffic control devices.

Conclusion

Because Paula was a foreseeable and intended beneficiary of the bus ride, duty is clearly established.

Breach

When the defendant falls short of the level required of the applicable standard of care owed to the plaintiff, the defendant has breached his duty.

Here, Dana approached an intersection and glanced at her phone to check the next stop and failed to notice that the light had turned red. By doing so, the bus entered the intersection and collided with a delivery van. Traffic signals are enacted to prevent exactly this type of collision from happening and resulting in injuries to motorists and passengers. Dana running a red light is a clear traffic violation and constitutes a breach of the standard of care. Given the heightened duty owed by a common carrier, this conduct strongly supports a finding of breach.

Conclusion

Due to Dana's conduct of driving through the red light which violated traffic laws, Dana has breached her duty as a bus driver.

Causation

"But For" Test: An act or omission to act is the cause in fact of an injury when the injury would not have occurred but for the act.

Here, but for Dana's failure to stop at the red light, the collision would not have occurred. Absent the collision, Paula would not have been thrown into the farebox and broke her arm. Thus, Dana's breach was a factual cause of Paula's injuries.

Proximate Cause: All harmful results that are within the natural consequence and increased risk of the defendant's act.

The defendant is liable for all harmful results that are normal incidents of and within the increased risk cause by his acts.

Here, collisions caused by running a red light foreseeably result in debris, dislodged vehicle parts, and risk to passengers. In this instance, the large rear-view mirror falling off the bus and the passengers being "thrown about" were natural and foreseeable consequences of the collision. There is no intervening cause breaking the chain of causation.

Damages

Paula suffered a broken arm from being thrown into the farebox due to the collision. A broken arm is a significant physical injury requiring medical treatment and likely causing pain, suffering, and potential lost wages. This constitutes actual, compensable damages, satisfying the final element of negligence.

Defenses

Comparative Negligence: is shown when the trier of facts weighs the plaintiff's negligence against that of defendant and reduces plaintiff's damages accordingly.

"Partial" Comparative Negligence: plaintiff can recover if they did not contribute negligently to their injury beyond a threshold level (no more than 50%).

"Pure" Comparative Negligence: allows recovery no matter how great plaintiff's negligence.

Here, Paula stood in front of the white line of the moving bus even though there was a sign posted that stated, "Notice, state law prohibits passengers from standing forward of white line while bus is in motion". The purpose of the law was to avoid passengers blocking the driver's view of the interior of the bus. By standing there, Paula interfered with Dana's ability to maintain safe operation, which may have contributed indirectly to the collision or Dana's inability to act optimally before the collision.

However, passengers are entitled to rely on a common carrier's safe operation. Dana's act of running the red light was a clear traffic violation that was the primary cause of the collision. Accordingly, any fault attributed to Paula would reduce, but not bar, her recovery.

Contributory Negligence: is when the plaintiff has not taken reasonable care for their own safety. The plaintiff's negligence generally bars any recovery despite the defendant's negligence.

Here, Paula's recovery could be barred entirely if her conduct of standing in front of the white line is deemed negligent. However, based on the facts most courts would apply the comparative negligence doctrine.

Overall Conclusion

Paula has a strong claim against Dana, the bus driver and the bus company. All elements of negligence are satisfied, and liability is further supported by negligence per se due to the traffic violation by Dana.

Riley v. Dana/SB Transit Co. ("Bus Company")

Whether Riley, a passerby injured while attempting to rescue Paula from further harm after the crash,

may recover for negligence.

Negligence

Supra.

Rescue Doctrine

Under the Rescue Doctrine, a defendant who negligently creates a dangerous situation is liable for injuries sustained by a rescuer who is injured while making a reasonable rescue attempt. Rescuers are foreseeable plaintiffs because "danger invites rescue". Recovery is barred only if the rescuer's conduct was reckless or wanton.

Duty

Supra.

Here, by Dana, running a red light causing a collision with a delivery van that ejected Paula, a passenger into the farebox resulting in a broken arm, Dana created an emergency situation posing as an imminent risk for further injury. It is foreseeable that a bystander, like Riley, would attempt to assist an injured passenger. Riley, who rushed to the intersection to help Paula when he saw a large rear-view mirror about to fall on her, was a foreseeable rescuer. Accordingly, the defendants owed Riley a duty of care.

Conclusion

Because Riley was a foreseeable rescuer in the situation the defendants owed him a duty of care.

Breach

Supra.

Here, the same conduct that breached the duty to Paula, Dana's negligent operation of the bus running the red light causing a collision with a delivery van, also breached the duty owed to foreseeable rescuers. The unsecured, large rear-view mirror becoming dislodged after the collision is further evidence of unsafe conditions resulting from the breach.

Conclusion

Thus, Dana has breached her duty as a bus driver.

Causation

"But For" Test

Supra.

Here, but for Dana's negligent conduct, Riley would not have been placed in a position requiring rescue. The falling rear-view mirror and Riley's resulting concussion from the mirror hitting him instead of Paula directly flowed from the dangerous situation created by the collision

Proximate Cause

Supra.

Here, injuries to rescuers are a classic foreseeable consequence of creating hazardous emergency. The rear-view mirror striking Riley while he attempted to protect Paula from additional harm was not extraordinary; it was precisely the type of risk that makes rescue dangerous. Therefore, proximate cause is satisfied.

Damages

Riley suffered a concussion, which is a compensable physical injury.

Defenses

Assumption of Risk

The plaintiff may be denied recovery if they assumed the risk of any damage caused by the defendant's acts. To have assumed the risk, the plaintiff must have known of the risk and voluntarily assumed it.

Here, under the Rescue Doctrine, a rescuer does not assume the risk of injury unless the rescue attempt is reckless or wanton. Riley rushed into the intersection to prevent a large rear-view mirror from falling onto Paula, one of the injured passengers. This was a reasonable response to an emergency and not reckless conduct.

Therefore, assumption of risk does not bar Riley's claim.

Comparative Negligence

Supra.

A rescuer's recovery may be reduced if the rescuer acted unreasonably under the circumstances, but rescue efforts are judged leniently.

Here, the defendants may argue that Riley negligently entered an active intersection. However, Riley acted in response to an emergency involving an injured passenger and imminent danger. Courts recognize that rescuers actions are evaluated with context in mind. Any fault assigned to Riley would likely be modest.

Therefore, comparative negligence may slightly reduce Riley's damages but will not bar recovery.

Overall Conclusion

Riley is likely to recover on his negligence claim against Dana, the bus driver and the bus company. Dana's act of running the red light constitutes negligence per se and created a dangerous emergency that foreseeably invited rescue.

3)

Nora v. Apex Blasting Co.

Whether Apex Blasting Co.'s ("Apex") permitted dynamite blasting, which causes constant vibrations making difficult for Nora to work from home, constitutes a private nuisance.

Private Nuisance

A private nuisance is a substantial, unreasonable interference with the plaintiff's use and enjoyment of property she possesses or has an immediate possessory interest to.

Interference must be either: (1) intentional and unreasonable, or (2) unintentional, but negligent, reckless, or such as would give rise to strict liability in tort.

Substantial Interference

The interference must be considered substantial. This means the average person in the community would find the interference offensive, annoying, or inconvenient, it would not be because the plaintiff is hypersensitive or using her property for a specialized use.

Unreasonable Interference

Gravity of the harm outweighs the utility of the conduct, or the harm is serious and compensation is appropriate.

Here, the constant vibrations interfere with Nora's ability to work from home, a normal and lawful use of her property. Nora is also not the only resident to make a complaint that Apex's blasting is too much, in fact, the City of Santa Barbara has received hundreds of complaints, this shows that Nora is not being hypersensitive to the constant blasting. Continuous vibrations are more than a trivial inconvenience and would likely be offensive to a reasonable person. Nora has also experienced cracks to the walls of her house due to the constant vibrations making her claim stronger against Apex's constant blasting. While Apex's dynamite blasting may serve a socially useful purpose (extract stone for the highway project), the frequency and persistence of the vibrations weigh heavily in favor of finding substantial interference. This harm is ongoing rather isolated, strengthening the claim.

Conclusion

Nora has a strong private nuisance claim, as the blasting substantially and unreasonably interferes with her use and enjoyment of her property.

Damages

In general the legal remedy is monetary damages. General damages can be used for non-economic losses such as pain and suffering and other sorts of intangible damages that result from mental, physical, or emotional injury. However, many jurisdictions limit or prohibit general damages for private nuisance. There are also special damages which are pecuniary or economic losses such as loss of wages or loss of business.

A plaintiff in a private nuisance action may recover damages for: loss of use and enjoyment of land, annoyance, discomfort, and inconvenience or related economic losses.

Here, Nora alleges that the constant vibrations make it difficult to work from home and have caused cracks in the walls of her house. Thus, Nora may recover compensatory damages for the ongoing interference with the use and enjoyment of her property and the damage to her walls.

Injunction

If the legal remedy is unavailable or inadequate, courts may consider an injunction which is a form of equitable remedy. An injunction is a court order that would require the Apex to do or not to do something. In considering whether an injunction is appropriate, courts will weigh the relative hardships of the respective parties.

Here, there was ongoing harm to Nora with the vibrations interfering with her daily life, inadequate damages (meaning money cannot fully compensate for the continuing disruption), and balance of hardships because while Nora's harm is serious it is private.

Therefore, the court would likely issue a limited injunction and not a total ban.

Nora v. Apex - Abnormally Dangerous Activity

Whether Apex is strictly liable to Nora for harm caused by dynamite blasting as an abnormally dangerous activity.

Abnormally Dangerous Activity

A defendant is strictly liable for harm resulting from an abnormally dangerous activity, considering factors such as:

- (1) High degree of risk and harm;
- (2) Likelihood that harm will be great;
- (3) Inability to eliminate risk with reasonable care;
- (4) Activity not common usage;
- (5) Inappropriateness of the activity to the location;
- (6) value to the community outweighing the danger.

Blasting dynamite can be seen as a classic abnormally dangerous activity.

Here, blasting dynamite inherently involves a high risk of serious harm, including vibrations and structural damage, even when performed carefully. The risk cannot be eliminated through reasonable care, and blasting is not a common activity for the general public. Since the blasting is occurring near residences (Tucker Grove), the activity may be inappropriate for the location. Especially because Nora is already experiencing damage to her home (cracked walls from noise) and constant disruption from working due to the vibrations happening all the time. Even though the blasting may have community value (resources for new highway project), that does not preclude strict liability.

Conclusion

Nora may recover under strict liability for harm caused to her from the dynamite blasting performed by Apex, without needing to prove negligence.

Defenses

Permit and Compliance with Regulations

Having all of the necessary permits and documentation does not bar nuisance or strict liability claims. Regulatory compliance may reduce the likelihood of an injunction but does not immunize Apex from liability.

Utility of Conduct

Apex may argue that the dynamite blasting is socially useful. As the blasting is essential for public infrastructure (highway) and is needed to start said project. This may limit injunctive relief but does not defeat damages where harm is substantial such as the damage to Nora's walls.

Overall Conclusion

Nora has a strong private nuisance claim against Apex for the constant vibrations she is experiencing when working from home due to the dynamite blasting at a nearby quarry.

The City of Santa Barbara v. Apex Building Co.

Whether Apex Building Co.'s ("Apex") blasting, which has generated hundreds of noise and dust complaints, constitutes a public nuisance, and whether The City of Santa Barbara ("SB") may bring suit.

Public Nuisance

A public nuisance is an unreasonable interference with a right common the general public (e.g. public health, safety, peace, or comfort). A public authority may sue to abate a public nuisance or a private party may sue only if they suffer special injury distinct from the public.

Here, SB has received a large volume of complaints about Apex which suggests widespread interference with public comfort and health, particularly from the noise and dust. This indicates harm to a broad segment of the community, not just isolated individuals (like the residents of Tuckers Grove). SB, as a governmental body, has standing to bring an action against Apex to abate the nuisance.

Conclusion

SB has a strong public nuisance claim and standing to seek injunctive relief or abatement.

Injunction

Supra.

Here, due to the widespread impact of the hundreds of complaints, the public interest of how the noise and dust is affecting the public, and that SB may seek abatement, it is likely that the injunction or abatement order would be ordered and possibly stricter than Nora's.

The City of Santa Barbara v. Apex Building Co. - Abnormally Dangerous Activity

Whether SB may bring a claim based on dynamite blasting as abnormally dangerous activity.

Abnormally Dangerous Activity

Supra.

Here, while dynamite blasting qualifies as abnormally dangerous, SB's harm is collective and regulatory in nature. SB is more appropriately positioned to proceed under public nuisance rather than strict liability, unless SB can show property damage or specific governmental injury. Here,

Conclusion

SB's strongest claim lies in public nuisance, not strict liability.

Defenses

Permit

Apex may argue that government authorization precludes nuisance liability. However, a permit does not legalize a nuisance if the activity unreasonably interferes with public rights.

Interests

Apex may argue that halting the blasting would impose significant economic or social costs, Courts may consider this in shaping remedies but will not ignore the ongoing widespread public harm.

Overall Conclusion

SB has a strong public nuisance claim supported by widespread complaints and may seek injunctive relief or abatement.

END OF EXAM