

QUESTION 2

Homer and Wanda are husband and wife. The furnace in their home stopped working. Wanda wanted to call a licensed repair person, but Homer insisted on attempting to fix it himself, despite having no knowledge of how the furnace worked.

After working on the furnace for some time, Homer informed Wanda that he had fixed it. Wanda and Homer then went out to dinner. When they arrived home, they found that it had been destroyed by fire. They were informed by a firefighter at the scene that the fire appeared to have originated in the furnace. When Wanda started yelling at Homer for “burning the house down,” Homer slapped her to calm her down.

Wanda sued Homer for negligence and battery. At a jury trial, she presented evidence proving the facts stated above. At the close of evidence, Homer moved for a directed verdict on the following grounds:

1. Spouses cannot sue each other in tort;
2. Wanda failed to present sufficient evidence to support a finding that Homer was negligent; and
3. Homer is not subject to liability for slapping Wanda because his intent was to calm her down, not to cause her any harm.

How is the judge likely to rule on Homer’s motion for directed verdict?

Discuss.