

**June 2017 Tots  
Model Answer**

**1. Betty against Albert? Discuss.**

**Assault**

Assault is an intentional placing of another in reasonable apprehension of an imminent harmful or offensive touching.

Albert accidentally dropped a watermelon, which broke open, on the floor. Betty the produce manager approached Albert and loudly criticized him for being clumsy. Albert was humiliated, and told Betty he quit. He then pushed her in order to get past her to leave. Since Albert was humiliated and quit his job, and wanting to leave, his act of pushing Betty shows he acted with a substantial certainty to place her in reasonable apprehension that she better get out of his way, thus, his act was intentional.

By Albert telling Betty he quit his job and pushing her in order to leave the store placed Betty in reasonable apprehension of an imminent harmful touching given that facts that Albert was humiliated by Betty for yelling at him, and his reaction was to quit his employment.

Albert will counter and say his conduct of pushing her was only to allow him to leave the store as quickly as possible since Betty humiliated him. Thus, he did not have the intent to create an apprehension of an imminent harm.

Therefore, Albert will not be liable to Betty for assault.

**Battery**

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

Being humiliated, Albert's conduct of pushing Betty in order to leave the store shows he was substantially certain to cause Betty to move. Thus, Albert's actions were intentional.

As a result of pushing Betty, she slipped on the watermelon and fell and hit her head. Thus, Betty's act of slipping and hitting her head was harmful and offensive to Betty.

Albert pushed Betty that resulted in her falling and hitting her head, hence, there was a touching of another.

Thus, it appears Betty does have a claim for battery against Albert.

**Actual cause**

"But for" Albert pushing Betty she would not have slipped on the spilled watermelon on the floor and become injured.

Thus, Albert was the actual cause of Betty's damages.

### **Proximate Cause**

Albert will argue that it is not foreseeable by pushing Betty in order to get by her so he could leave the store, she would slip on the spilled watermelon causing her to fall, hit her head and suffer a debilitating brain injury. However, Albert just dropped the watermelon on the floor. Knowing that the watermelon was broken open, making the floor slippery, and then pushing Betty it is foreseeable that Betty would slip and fall and could sustain a serious injury due to her fall.

Therefore, Albert was the proximate cause of Betty's damages.

### **General Damages**

General damages are damages that reasonably or naturally flow from the tort and they do not need to be specifically pleaded. General damages allow recovery of compensation for pain and suffering.

Betty should recover for any damages which reasonably and naturally flow from Albert's tortious conduct, which would include the pain and suffering damages she sustained.

Therefore, Betty will be entitled to general damages.

### **Special Damages**

Special damages are those damages unique to Plaintiff and they must be specifically pleaded and proved. Further, special damages must be foreseeable, reasonable in amount and not too remote.

Betty should receive damages for any lost wages resulting from Albert's act.

Therefore, Betty is entitled to special damages.

### **Punitive Damages**

Punitive damages may be awarded where there was intent to injure or harm plaintiff.

As discussed, since Albert committed a battery against Betty, he acted with the substantial certainty to do the conduct establishing intent to cause injury to Betty.

Therefore, Betty will be entitled to punitive damages from Albert.

### **Intentional Infliction of Emotional Distress**

Intentional infliction of emotional distress is the intentional outrageous conduct by the defendant which is calculated to cause and which does cause severe emotional distress.

Betty will argue Albert's pushing her that caused her to fall to the ground, exceeded the bounds of decent behavior and was intentional, outrageous conduct.

Albert's act of pushing Betty was only because he was humiliated and wanted to get out of the store as soon as possible.

Although pushing another may be deemed to be outrageous in nature, Albert did not threaten Betty, and his actions were not calculated to cause and did cause Betty to experience emotional distress.

## **2. Carl v. Albert**

### **Assault**

Albert being humiliated by Betty criticizing him for dropping the watermelon, he quit his job. He then grabbed and pushed a shopping cart at Carl. Hence, his act of pushing the shopping cart at Carl shows he acted with a substantial certainty to place him in reasonable apprehension that he was going to be hit by the shopping cart, thus, his act was intentional.

By Albert's actions of pushing the shopping cart at Carl, and Carl's act of jumping out of the way shows he was in reasonable apprehension of an imminent harmful touching given the fact he jumped out of the way in order not to be hit by the shopping cart.

Therefore, Albert will be liable to Carl for the assault.

### **General Damages**

Defined supra

Carl sustained no damages. Thus, he will not be entitled to general damages.

Therefore, Carl will receive no general damages.

### **Special Damages**

Defined supra

Since Carl did not have general damages he will not be able to get any special damages. Therefore, Carl is not entitled to special damages.

### **Punitive Damages**

Defined supra

As discussed, since Albert committed an assault against Carl, he acted with the substantial certainty to do the conduct establishing intent to cause injury to Carl. Since Albert acted out and deliberately tried to harm Carl, the court will award punitive damages to punish Carl for his conduct.

Therefore, Carl will be entitled to punitive damages from Albert.

### **Battery**

Defined supra.

Being humiliated, Albert left the store, grabbed a shopping cart and pushed it at Carl. Thus, Albert's conduct of pushing the shopping cart at Carl shows he was substantially certain to cause Carl to be hit with the shopping cart. Thus, Albert's actions were intentional.

However, when Albert pushed the shopping cart at Carl, he jumped out of the way. Thus, Albert's act of pushing the shopping cart at Carl, and the fact that the shopping cart did not hit Carl, there was no harmful and offensive touching.

Therefore, there was no battery.

### **3. Duane v Albert**

#### **Battery**

Defined supra.

Albert's conduct of grabbing a shopping cart and pushing it violently at Carl shows he was substantially certain to hit Carl with the shopping cart. Thus, Albert's actions were intentional. Albert will argue he only intended to hit Carl and not Duane. As such, he lacked the requisite intent to harm Duane.

#### **Transferred Intent**

A Defendant's wrongful intent is transferred from the intended victim to the actual victim or from the intended tort to the committed tort.

Albert grabbed a shopping cart and violently pushed it at Carl. The shopping cart missed, but struck Duane. Since Albert intended to hit Carl with the shopping cart, he will be liable for the resulting harm to Duane since his wrongful intent is transferred from Carl, whom he intended to hit, to Duane, the actual victim.

When Albert grabbed the shopping cart and violently pushed it at Carl the shopping cart struck Duane on his backside causing him to suffer a heart attack. By Albert's action, he created a harmful touching of another.

Under the transferred intent doctrine, Albert will be liable for battery.

#### **Actual Cause**

Defined supra.

"But for" Albert violently pushing the shopping cart at Carl, Duane would not have been struck by the cart.

Therefore, Albert's conduct is the actual cause of any injury sustained by Duane.

#### **Proximate Cause**

Defined supra.

It is foreseeable that if you violently shove a shopping cart at someone and hit them that the person could have a heart attack. Albert, will argue that Duane's heart attack is an unforeseeable, intervening act, and thus cutting off the chain of causation. However, the court will probably find that it is foreseeable since Duane had a pre-existing condition of an unstable heart, that you take the victim as you find them, under the thin skull plaintiff doctrine and shoving a cart at Duane it would be foreseeable he could have suffered a heart attack.

Therefore, Albert is the proximate cause of Duane's damages.

### **General Damages**

Defined supra

Duane should recover for any damages which reasonably and naturally flow from Albert's tortious conduct, which would include any personal injury damages he sustained from the shopping cart hitting him.

Therefore, Duane will be entitled to general damages.

### **Special Damages**

Defined supra

Duane should receive damages for any lost wages or medical expenses resulting from Albert's conduct.

Therefore, Duane is entitled to special damages.

### **Punitive Damages**

Defined supra

As discussed, since Albert committed a battery against Duane, he acted with the intent to cause injury.

Therefore, Duane will be entitled to punitive damages from Albert.

## **4. Edna v. Albert**

### **Trespass to Chattel**

Trespass to chattel is the intentional interference with the chattel of another.

Albert was humiliated by Betty. In the parking lot he walked around a car that he believed was Betty's and used his car key to leave a deep gouge in the finish on all four sides of the car. Hence, he acted with intent. However, Albert will argue that the car belonged to Edna and not Betty, thus he lacks the intent to interfere with her car. However, as discussed supra under the transferred intent doctrine intent is transferred from the intended victim to the actual therefore, Albert's intent to harm Betty's car, when in actuality he harmed Edna's, the intent will transfer.

In addition, his act of taking his car key and leaving a gouge in the finish of the car on all four sides is an intentional interference with Edna's personal property of another.

Albert will be liable for trespass to chattel.

### **General Damages**

Defined supra.

Edna should recover for the cost to repair her damages from Albert's tortious conduct, which would include any property damages she sustained from his act of gouging the car.

### **Special Damages**

Defined supra.

Edna should receive damages for any lost wages resulting from Albert's misconduct.

### **Punitive Damages**

Defined supra.

As discussed, since Albert committed a trespass to chattel against Edna, he acted with the intent to cause damage to her car.