

Question 1

Al went to Dan's gun shop to purchase a handgun and ammunition. Dan showed Al several pistols. Al selected the one he wanted and handed Dan five \$100 bills to pay for it. Dan put the unloaded pistol and a box of ammunition in a bag and placed it on the counter.

While Al was filling out the necessary registration papers, Dan went to the cash register to make change. As he was doing so, Dan noticed that the bills Al had handed him were counterfeit, and he exclaimed, "You rotten bum! You've given me phony money."

At that moment, Al grabbed the bag that had the gun and ammunition in it and fled from the gun shop. Dan grabbed a loaded pistol he kept under the counter and ran after Al, yelling at him to stop. As Dan pursued Al down the street, he fired a shot into the air, and yelled, "If you don't stop, the next shot will stop you." Al kept running, and, as he did so, he loaded a cartridge into the pistol he had fled the gun shop with, turned, and shot toward Dan. The bullet struck and killed Dan.

1. What legal justification, if any, did Dan have for (a) pursuing Al, and (b) threatening Al with deadly force? Discuss.
2. With what crimes can Al be charged, and what defenses, if any, can he assert? Discuss.

Question 2

Seller inherited a collection of antique dolls from her aunt. In her aunt's estate, the collection had been valued at \$15,000. On September 1, Seller wrote, signed, and sent the following letter to several well-known doll collectors in her area:

Dear Doll Collector:

I now own a collection of antique dolls that I'm
I know he or she wants the collection. This offer
will be good for 30 days. If you want to inspect the
dolls, I'll be happy to make an appointment. Phone
me at 555-1765.

Seller

On September 3, Buyer, who was familiar with the collection, received the letter and immediately called Seller to arrange to inspect the dolls on the same day. Buyer appeared at Seller's home and inspected and photographed the dolls. She told Seller, "I'm interested, but I want to do some research. I'll get back to you." Seller said, "Okay, but my letter went out to a number of other people. I'm selling to the first one I actually hear from who wants to buy the entire collection." On September 4, Buyer took the photographs to an expert doll appraiser and paid the appraiser \$1,000 to evaluate and authenticate the collection. The appraiser told Buyer the dolls were authentic and worth at least \$30,000. Buyer immediately phoned Seller, who was not at home. Buyer left a message on Seller's telephone answering machine saying, "This is Buyer. I like the dolls. Please call me at 555-8876 when you get home." Also on September 4, and just to be doubly sure, Buyer wrote and signed a letter to Seller stating, "I accept your offer to sell your doll collection for \$15,000. Buyer," and deposited the letter in the mail at the Post Office.

Soon after Buyer returned home from depositing the letter at the Post Office, she received a phone call from Seller. Seller said, "I got your voice mail message. However, I just want to let you know that I've had an appraisal made of the collection, and I'm not willing to let it go for less than \$35,000." Buyer responded, "You can't do that. I accepted your offer of \$15,000, so you have to sell it to me for \$15,000."

Was an enforceable contract formed binding Seller to sell the doll collection to Buyer for \$15,000? Discuss.

Question 3

Prof is a professor of torts and commercial law at University Law School (“ULS”). Prof’s employment contract with ULS requires him to teach a certain number of hours, conduct research, publish scholarly works, be available for consultation with his students, and engage in community service.

Dave, one of Prof’s students and research assistants, applied for a summer job with the State Office of Youth Assistance, an agency that houses and counsels troubled youths. Dave asked Prof to write a letter of recommendation for him. Prof agreed and wrote a letter recommending Dave highly and in unqualified terms. He sent the letter to the Office of Youth Assistance in a sealed envelope marked “Confidential.”

Prof knew that the job for which Dave had applied required the incumbents to be in frequent close and unsupervised contact with young children. Prof also knew at the time he wrote the letter that Dave had admitted during a confidential disciplinary investigation by ULS that he had molested his girlfriend’s young daughter and that Dave was undergoing counseling related to the incident. Prof did not mention anything about this in the letter because he did not want to hurt Dave’s chances of getting the job and because he was convinced that Dave would not repeat his conduct.

Dave was hired by the Office of Youth Assistance. Toward the end of the summer, while conducting a private interview with a six-year-old girl, Dave succumbed to temptation and attempted to molest her. The girl’s screams attracted the attention of Gina, a youth counselor working nearby. Gina ran to the rescue, but the stress of the situation caused Gina to suffer a debilitating heart attack.

Gina sues Prof and ULS for negligent misrepresentation, alleging that Prof is liable because of his neglect in failing to disclose what he knew about Dave in his letter of recommendation and that ULS is liable under the doctrine of respondeat superior.

Prof moves to dismiss Gina’s suit on the grounds that (i) he owed no duty of care to Gina to disclose what he knew about Dave and (ii) even if did have such a duty, his breach of the duty was not the proximate cause of Gina’s injuries.

ULS moves to dismiss Gina’s suit on the ground that ULS cannot be held vicariously liable because writing letters of recommendations for his students was outside the scope of Prof’s employment duties as a professor.

How would a court be likely to rule on each ground of the motions filed by Prof and ULS to dismiss Gina’s suit? Discuss.

Question 4

Dan intensely disliked his co-worker, Mona, with whom he was in direct competition for an important promotion at work. He knew that Mona and her husband, Otto, had a troubled marriage and that Otto suspected Mona of infidelity. He also knew that Otto had a very bad temper when provoked.

Hoping secretly that it would provoke Otto to kill Mona, Dan told Otto that he had seen Mona and another co-worker in a compromising position in the storeroom on several occasions. Believing what Dan told him, Otto went to Mona's workplace and hid in the storeroom. As he waited, he became angrier and angrier with each passing moment. When Mona entered to get some supplies, Otto jumped out from behind a cabinet, flew into an uncontrollable rage, yelled "Dan has told me what you do when you come in here. I'm going to kill you," and began to strangle her. Mona's screams attracted a security guard, who subdued Otto and freed Mona.

Dan and Otto have each been charged with solicitation of murder, conspiracy to commit murder, and attempted murder.

Do the facts support each of the charges against Dan and Otto, and what, if any, defenses might they each assert? Discuss.