

**June 2009 Baby Bar
Question 1 Torts
Model Answer**

Dolly v. Al

False Imprisonment

False imprisonment is the intentional physical or psychological confinement of another within fixed boundaries.

Al did not like Dolly and wanted to get her fired. When Al went into Dolly's office telling her not to leave or he and some of his friend would beat her up Al acted with a substantial certainty to confine Dolly into her office. Al's act was intentional.

Al's threat to Dolly, "If you leave this office before the meeting is over, some of my friends and I will come to your home and beat you up," and Dolly's act of being scared shows psychological confinement.

Dolly felt she was confined to her office. Thus, confinement of another within a fixed boundary.

However, Al will argue Dolly could have left her office at any time. He may also argue that his threat of physical force against Dolly were merely words and not physical force. While this argument will likely fail, courts hold confinement based on a threat of force must be imminent. Thus, the requisite facts for establishing physical or psychological confinement will be found since Al's threat was for future harm.

Therefore, Al will be not liable for false imprisonment.

Assault

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

Al, who did not like Dolly and wanted her fired, went into Dolly's office and told Dolly not to leave her office before the mandatory meeting was over. Since Al acted with a substantial certainty to scare Dolly by his conduct of telling her that he and his friends would beat her up if she left her office before the mandatory meeting was over, his act was intentional.

By Al scaring Dolly and telling her if she left her office he and his friends would go to her home and beat her up put Dolly in reasonable apprehension of an imminent harmful touching given that facts that she did not leave her office until after the meeting was over.

Al will counter and say his statement if Dolly did not stay in her office that he and his friends would come to her home and beat her up is a threat of future harm which negates the apprehension of an imminent harm.

Therefore, Al will not be liable to Dolly for assault.

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.

Dolly will argue Al's threat to beat her up if she went to the office meeting in order to get Dolly fired, exceeded the bounds of decent behavior and was intentional, outrageous conduct.

Al's act of threatening Dolly to beat her up if she goes to the office meeting and Dolly becoming afraid was calculated to cause distress.

The outrageous nature of threatening to beat up another employee in order to get them fired without justification would be calculated to cause and did cause Dolly to experience emotional distress.

Assuming that Dolly did suffer emotional distress from the incident, given that the facts are silent on this element, Al will be liable to Dolly for intentional infliction of emotional distress.

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 pain and suffering.

Dolly should recover for any damages which reasonable and naturally flow from Al's tortious conduct, which would include the emotional distress damages she sustained.

Therefore, Dolly 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.

Dolly should receive damages for any lost wages resulting from Al's act.

Therefore, Dolly is entitled to special damages.

Punitive Damages

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

As discussed, since Al committed intentional infliction of emotional distress against Dolly, he acted with the intent to cause injury to Dolly.

Therefore, Dolly will be entitled to punitive damages from Bob.

Dolly v. Bob

Battery

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

Bob's conduct of putting a sleeping pill into Dolly's coffee shows he was substantially certain to cause Dolly to drink the coffee and fall asleep. Thus, Bob's actions were intentional.

Dolly drank the coffee and fell asleep at her desk for twenty minutes. Thus, Bob's act of slipping the sleeping pill into Dolly's coffee was harmful and offensive to Dolly.

Bob will argue he did not actually touched Dolly. However, slipping a sleeping pill into someone's coffee is an extension of oneself and would equate to a touching. Since Bob put the sleeping pill into Dolly's coffee, which she drank, there was a touching of another.

Thus, it appears Dolly does have a claim for battery against Bob.

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 pain and suffering.

Dolly should recover for any damages which reasonable and naturally flow from Bob's tortious conduct, which would include the emotional distress damages she sustained.

Therefore, Dolly 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.

Dolly should receive damages for any lost wages resulting from Bob's act.

Therefore, Dolly is entitled to special damages.

Punitive Damages

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

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

Therefore, Dolly will be entitled to punitive damages from Bob.

False Imprisonment

Defined supra.

Bob did not like Dolly and wanted to get her fired. When Bob put a sleeping pill into Dolly's coffee shows he was substantially certain to cause Dolly to drink the coffee and fall asleep. Thus, Bob's actions were intentional.

Bob's act of having Dolly fall asleep at her desk evidences Dolly's physical confinement as a result of Bob putting a sleeping pill in her coffee.

However, Bob will argue Dolly was not aware of the confinement nor was she injured by the confinement. Based on the law one must be aware of injured in order to recover. Thus, no confinement.

No confinement will be found since Bob's actions did not injure Dolly, nor was she aware of the wrongful conduct.

Therefore, Bob will be not liable to Dolly for false imprisonment.

Trespass to Chattel

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

Bob intended to get Dolly fired by putting a sleeping pill in her coffee to make her fall asleep on the job. Hence, Bob acted with intent. His act of putting the sleeping pill into Dolly's coffee cup to make her fall asleep constituted an intentional interference with Dolly's personal property of another.

Bob will be liable for trespass to chattel.

General Damages

Defined and discussed supra.

Special Damages

Defined and discussed supra.

Punitive Damages

Defined and discussed supra.

Intentional Infliction of Emotional Distress

Defined supra.

Dolly will assert by Bob drugging her coffee with a sleeping pill in order to get Dolly fired, exceeded the bounds of decent behavior and was intentional, outrageous conduct.

Bob's act of putting the sleeping pill into Dolly's coffee in order to have her fall asleep on the job and get her fired was calculated to cause distress.

The outrageous nature of putting a sleeping pill in her coffee in order to get Dolly fired without justification would be calculated to cause and did cause Dolly to experience emotional distress.

Assuming that Dolly did suffer emotional distress from the incident, given that the facts are silent on this element, Bob will be liable to Dolly for intentional infliction of emotional distress.

General Damages

Defined and discussed supra.

Special Damages

Defined and discussed supra.

Punitive Damages

Defined and discussed supra.

Dolly v. Carl

Defamation

Defamation is a false defamatory statement intentionally or negligently published to a third party, which is understood as defamatory by that third party causing damages to plaintiff's reputation.

Dolly will assert Carl's statement that she had a serious drinking problem and it interfered with her job performance was false and would tend to lower her reputation in her profession making it defamatory in nature.

Carl's statement was made to the manager of Human Resources for Zco in response to his inquiry as to why Dolly had missed the meeting on Monday and fell asleep on Tuesday. Since Carl knew why Dolly missed the meeting and fell asleep and told the Human Resources Manager a known, false reason, Carl's actions were intentional.

Carl told the manager of Human Resources for Zco. Thus, the publication was to a third person.

Carl's statement to the manager of Human Resources for Zco resulted in Dolly being fired indicating that such statement was understood as defamatory.

The statement concerning her profession damaged her reputation as a good employee. The statement Dolly had a drinking problem that interfered with her job performance at work damaged her profession. As such, Carl's statements will constitute slander per se and general damages will be presumed.

Carl will be liable for defamation.

General Damages

Defined and discussed supra.

Special Damages

Defined and discussed supra.

Defense - Truth

Truth of a defamatory matter is a complete defense.

Carl will argue Dolly did miss the mandatory meeting, and fell asleep on her desk on Tuesday. Therefore, his report that she was a woman of poor moral character was true, giving him a complete defense.

However, Carl was aware of the actual reasons why Dolly had missed the meeting on Monday and fell asleep at her desk on Tuesday. In fact, Carl had no reason to believe that Dolly had a drinking problem and his statement was completely false since he never had reason to believe Dolly appeared to have a drinking problem.

Thus, Carl's statement was not the "truth" and cannot be a valid defense.

Qualified Privilege

A person has a qualified privilege to defame another if he reasonably believes his statements are necessary to protect a legitimate public interest and that the person to whom the statement is made has the power to protect that interest.

Carl's statement was made in response to an employment inquiry from the manager of Human Resources. Carl will argue that he reasonably believed that he must disclose his knowledge of Dolly's character to protect the legitimate public interest for qualified professionals.

However, it appears that Carl's statements were motivated by his desire to get Dolly fired from her job. He was not acting out of a desire to protect the public interest for qualified professionals. Rather, he was acting out of malice and intent to harm Dolly. Thus, any qualified privilege he may have had to report Dolly's work habits was lost through his abuse.

The qualified privilege will not apply

Interference with Contract

Interference with contract is the intentional interference with an existing contract.

Carl did not like Dolly and wanted her fired. When the Manager of Human Resources asked him if he knew why Dolly missed the mandatory meeting and why she fell asleep at her desk Carl, knowing the true reasons, told the manager that Dolly had a drinking problem that interfered with her job performance. Thus, Carl's conduct was intentional.

Further, Carl's statement was made in order to get Dolly fired from her job. By Carl making the false statement which got Dolly fired he interfered with an existing contract.

Therefore, Carl will be liable for interference with contract.

General Damages

Defined and discussed supra.

Special Damages

Defined and discussed supra.

Punitive Damages

Defined and discussed supra.

Intentional Infliction of Emotional Distress

Defined and discussed supra.