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1. Is State Hospital liable for Cook's negligence?

Negligence per se

Negligence per se gives rise to liability where there is a statute that is designed to protect against certain harm, and that the persons harmed were the ones the statute was designed to protect against.

Here, the facts state that Cook was found negligent for failing to comply with the state health code. This means that Cook is strictly liable. The statute provides that food served in the premise of the hospital must never be left unattended. The concern is that unattended food can be contaminated or tampered with. This language in the code is strict in that food "must never" be left unattended, which shows that the code was likely adopted to combat such issues of contamination in the past. The class or persons that this statute is intended to protect is broad and encompasses anyone who may eat the food at the hospital. The issue turns on whether State Hospital is in turn liable for Cook's negligence.

Respondeat Superior - Vicarious liability

A principal can be liable for its agent's negligence if the negligence was done in the capacity of the agent's duties under the principal. In other words, an employer may be liable for its employees or agents who were negligent in their course of their employment or dealings. Here, Davis is a Chief Executive Officer of the State Hospital, and is employed by the State Hospital. If Davis is found to be negligent in failing to comply with state health code, then the liability may also be inputted onto the State Hospital. Patrick will assert liability claims against the State Hospital as well as Cook.

Sovereign Immunity

State Hospital and Cook will try to assert immunity. Under the 11th Amendment, a state cannot be haled into court by a private individual. State Hospital will argue that because it is managed and funded by the state, it should also be immune from being sued in that it is part of the state. However, the facts indicate that State Hospital is a public hospital, and as such, should not be considered "the State" in asking for immunity.

Conclusion

Because Cook was found negligent in failing to comply with state health code statute and is deemed strictly liable, State Hospital should be vicariously liable. In addition, the sovereign

immunity challenge would also fail because State Hospital is not a function of the state in that it is a public hospital that serves the general public. The State Hospital can be found liable in that sense.

2. Does State Hospital owe Patrick a duty to protect him from Frank?

This issue turns on whether the State Hospital owes a duty to Patrick and whether that duty extends to negligence caused by a trespasser.

Negligence

A prima facie case of negligence includes a duty, breach, causation, and damages.

Duty

Standard of Care

A defendant owes a duty to a plaintiff, and the standard is reasonable person under the circumstances. There are also instances where special duties are owed, such as that of a parent-child, attorney-client, doctor-patient, or public buildings to patrons.

Here, Hospital owes a duty to all plaintiffs to act reasonably under the circumstances. There is also a special duty in this case because a hospital is held to a heightened degree of care for its visitors. This could also be views as a doctor-patient duty, but in this sense, it encompasses the entire State Hospital that owes the duty of care.

To whom is the duty owed? (Palsgraf)

There are two views that govern this. Under the Cardozo view, a duty is owed to all foreseeable plaintiffs in the zone of danger. Under the Andrews view, a duty is owed to all.

Here, any visitor that enters the State Hospital is considered a foreseeable plaintiff. The State Hospital owes a duty of care to the visitors in any sense that is reasonable under the circumstances of each visitor. Patrick is a current patient at State Hospital and he is a foreseeable patient in the zone of danger as well as a foreseeable patient generally.

Breach

A duty is breached when the standard of care is not met or dips below the reasonable care standard. Here, State Hospital breached its duty to Patrick when he consumed mashed potatoes that were mixed with peanut butter. State Hospital will try to argue that allergies to peanut butter is not too common among all patrons at the hospital and so there is no breach.

However, this argument will fail because the breach is viewed as a direct breach to Patrick and not everyone generally, and that courts will see that the defendant takes the plaintiff as they are, allergies and all other weaknesses.

Causation

Actual Causation

Actual causation is found when the harm the plaintiff suffers is the direct and actual cause of the act. But for Frank mixing peanut butter powder into the mashed potatoes, Patrick would not suffer a severe allergic injury.

Proximate Causation

Only superseding intervening acts will break the chain of action. Here, State Hospital will argue that Frank, as a trespasser, was the intervening act that caused the damages and injuries to Patrick. Patrick will rebut and argue that State Hospital is responsible for acts stemming from trespassers within their premises, since the State Hospital has the duty to ensure that the premises are safe from such intruders. State Hospital will argue that they could have not have foreseen Frank trespassing onto the premises and as such cannot prevent the harm done. However, there is a strong presumption that hospitals should have safeguard measures in place to prevent intruders from committing pranks and other tortious acts. Thus, State Hospital is found to be in proximate causation.

Damages

Damages are found because Patrick suffered an allergic reaction. The State Hospital should ensure that Patrick is treated for his damages to prevent further health concerns that stems from this incident.

Defenses

Assumption of Risk

If there is a finding that a plaintiff assumed the risk of the nature of the act or situation, then the defendant is not found liable. Here, State Hospital will assert that Patrick assumed the risk when he ate the food served at the hospital. However, this argument will fail because a hospital has the duty to serve safe food to its patients, especially when the food was offered by the hospital and/or its agents.

Conclusion

State Hospital owes Patrick a duty to protect him from Frank, even though Frank is an intruder, because State Hospital should have had safer measures to prevent this incident from occurring.

3. Davis' defenses for negligently deciding to reassign security guard from hospital kitchen

Duty

The strongest defense that Davis has is that she was acting within her role to safeguard the general health and safety of the State Hospital and its visitors. As Chief Executive Officer, Davis' fiduciary duties to the staff and the patrons is to ensure their safety. She did not negligently assign the guard because the fighting words in the email were a threat serious enough for a reasonable person to act under the circumstances.

Breach

Davis can assert that she did not breach her duty when she assigned the security guard. Davis will assert that she acted reasonably under the circumstances, and that a reasonable person would not ignore an email with such threats. A reasonable person under the circumstances would likely assign a guard to the hospital lobby.

However, since Davis did not put anyone else at the Hospital on notice of these threats, this could show that she acted unreasonably.

Davis will assert that the reassignment was done in good faith

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