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Amy's Liability

General Partnership

General partnership is an association of two or more persons to carry out a business for profit. partners in a general partnership agreement are jointly and severally liable regarding the actions they taken is association of the purpose of the business. If the partners files the paperwork with Secretary of the state then the partnership will be a limited partnership but per the fact we have a general partnership.

Here AMY and Bob and Carl are partners in the ABC law firm and as the fact stated the operation of the partnership is under a general partnership.

Thus there is a general partnership.

Actual Authority

Each partners have express and implied actual authority in representation of the partnership and can hold liable the partnership if the act is in scope of the partnership and related in furtherance of the responsibilities related to their work.

Here Amy has express actual authority as a partners in ABC law firm and as a general partner will be help liable if the act that he is doing is in furtherance of the operation of the law firm.

Thus as a partners she has express actual authority.

Negligence

In order a person sue someone under the negligence he needs to prove the duty, breach, actual cause and proximate cause and damages.

Duty

Any person has a duty of act as a reasonable prudent person to all foreseeable plaintiffs. (Cardozo view). Under the (Andrew view) the duty of care is owed to everyone.

Here Priya sue Amy in a negligence action while that happened in a heavy traffic accident that happened while Amy was driving in a heavy traffic to attend a baseball game when she received an urgent email from law firm and she answered the phone while she was driving and so she was negligent is doing so because she did not act as reasonable prudent person in such circumstances because although the firm instructed her to answer immediately to the phone she could stop somewhere safe and the answer the phone the she breach her duty to Priya.

Thus Amy breached the duty of care to Priya.

Actual cause

Actual cause is the but for test and the cause of action would not have happened in the absence of negligence on the part of the defendant.

Here Amy is the actual cause of accident of Priya and as stated above the accident happened as Amy was negligent.

Thus Amy was the actual cause.

Proximate cause

Proximate cause is all about foreseeability and it should be foreseeable that breach of duty will be the proximate cause of the cause of action.

Here it was foreseeable that if Amy answered the phone while she was driving it would cause the accident because phone call made her to distract from the road and could not drive as prudent driver would.

Thus Amy was the proximate cause of the accident.

Damages

Damage will be all economic and non-economic damages that plaintiff seeks for.

Amy will be liable for all damages to Priya because she was negligent and breached her duty of care to Priya as reckless driver and was actual and proximate cause of the accident.

ABC's Liability

General partnership

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Here AMY and Bob and Carl are partners in the ABC law firm and as the fact stated the operation of the partnership is under a general partnership.

Thus there is a general partnership.

Actual Authority

Each partners have express and implied actual authority in representation of the partnership and can hold liable the partnership if the act is in scope of the partnership and related in furtherance of the responsibilities related to their work.

Here Amy has express actual authority as a partners in ABC law firm and as a general partner will be help liable if the act that he is doing is in furtherance of the operation of the law firm.

Vicarious liability (respondent superior)

In order someone be vicariously liable the work must be in scope of the employment, nature of the work be the kind of the work that the employment is expected and if the nature of the work be dangerous be the kind of work that a reasonable person expected.

Here Priya sue ABC in a negligence action while that happened in a heavy traffic accident that happened while Amy a parter of the law firm was driving in a traffic to attend a baseball game when she received an urgent email from law firm and it was in the scope of their work because as the ABC policy all firm attorneys must carry their work- provided cell phones with them at all times and that all client emails must be responded immediately, at least with a personal acknowledgment of the receipt. Although Amy ABC will be vicariously liable too because she was answering the phone call related to their work but ABC will be arguing that it was not reasonable that Amy answer the phone while she was driving and she could just stop somewhere safe and answer the phone but Amy will say that as a firm policy she was concern with her work and thought she needed to answer the phone because per the policy she needed to answer immediately but this argue will likely fails.

Thus this will be a close call for the court to determine the policy and if the ABC will be vicariously liable or not. if the court held that Amy answering the phone call was in the scope of the work while she was driving then she will be vicariously liable.

Direct liability

A person will be directly liable for his own negligence if the work not be in the scope of the employment.

Here ABC will be directly liable too because ABC has a policy that all attorneys need to answer the phone call that the ABC provided and each person must immediately answer the phone that is not really reasonalbe that a law firm have such a policy.

ABC directly liable too because of the policy but will be indemnify in a comparative negligence jurisdiction to the extend of the negligence was on the part of Amy.

Comparative negligence

ABC will be jointly and severely liable to the Priya but they can seek Indemnification from Amy because she was negligent in driving.

Bob's Liability

Negligence (vicarious liability)

In order a person sue someone under the negligence he needs to prove the duty, breach, actual cause and proximate cause and damages.

Here Bob did not have a duty to Priya as a partner to the general partnership since Amy was attending a baseball game which was not in the scope of the work so he will not be vicariously liable because this was not in the scope of work.

Direct liability

Rule is above.

If the court determine that as a general partnership they are directly liable for negligence hiring or supervising the people they are working with then they will be liable.

Here if the court determine that the policy was the reason that Amy answered the phone and caused the accident may partially makes the law firm and their partners liable.

Bob may be directly liable to Priya as a partner of a general partnership.

Sam's Liability

Negligence

Rule is above.

Here sam was not a partner iANC law firm and did not have a duty to Priya. He was working with ABC closely and Priya may argue that because Sam was receiving %10 percent profit he would be held liable for his damages but since he was not a partner he can not be held vicariously liable to the Priya.

Actual and proximate cause

Thus Sam is not liable for Priya and was not actual or proximate cause of her damages.

Question #1 Final Word Count = 1368

END OF EXAM