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1. Could Yvonne successfully sue Ollie or Barry, or both, in negligence for her broken arm and cut hand?

Yvonne v. Ollie - Cut Hand

Negligence

To establish a prima facie case for negligence a plaintiff must prove that the defendant had a duty of care, they breached that duty, there was causation, and damages.

Duty of Care

A defendant owes a duty of care to all those that might be harmed from a breach of the applicable standard of care. Under the majority view (Cardozo), a duty is only owed to those that are within the zone of danger whereas under the minority view a duty of care is owed to everyone.

Here, Ollie owns a field that he rents out to a soccer team. Ollie owes a duty of care to every single person that he knows will be using his field to play soccer or any other sport because he is the owner of that field.

Thus, Ollie has a duty of care.

Standard of Care

The standard of care is that of a reasonably prudent person. A landowner owes a heightened standard of care to invitees to reasonably inspect, make safe, and remove any dangers within the land.

Here, Ollie is a landowner because he owns the field that he rents out to soccer teams and he owes them a heightened standard of care. Ollie will argue that the afternoon before the team was set to play he ensured that the field was safe because he examined the entire field for any dangerous conditions. However, Yvonne will argue that while Ollie found nothing the night before the game he did not examine the field the morning the game was actually set to take place and under the applicable standard of care he needed to reasonably inspect it to ensure that something did not occur over night that would now make it dangerous for the players to play on the field.

Thus, Ollie violated the applicable standard of care.

Breach

A breach occurs when the defendant does not follow the applicable standard of care and breaches his duty.

Here, a breach occurred because Ollie did not inspect the field the morning before the game to ensure that there were no present dangerous conditions before the team arrived. Additionally, because there was broken glass lying on the field that could have easily been inspected and removed the morning of the game and it was not, Ollie has breached his duty.

Thus, Ollie has breached his duty.

Causation

Causation must be proven if the defendant's breach was the actual and proximate cause of the plaintiff's damages.

Actual Cause

Actual causation occurs when but for the defendant's breach the plaintiff would not have sustained damages

Here, Yvonne can prove actual causation because but for Ollie not inspecting the field the morning of the game and discovering that there was actual broken glass lying on the field she would not have cut her hand.

Thus, Yvonne can prove actual cause

Proximate Cause

Proximate cause occurs when it is reasonably foreseeable that the defendant's breach will cause the plaintiff's damages.

Here, Yvonne can prove proximate cause because it was reasonably foreseeable that if Ollie did not inspect the field the morning of the game that a dangerous condition might appear that could cause harm the players. Ollie might try and counter argue that he did inspect the field the night before and assumed that because there were no apparent dangerous conditions nothing would appear overnight. He might further argue that because the field is possibly in a secluded area there is a very limited possibility that glass would appear out of nowhere. However, it is unlikely this argument will stand because as a landowner he owes a heightened duty of care and should have inspected the land the morning of.

Thus, Yvonne can prove proximate cause.

Damages

Damages must be casual, certain, and foreseeable. The plaintiff can only recover for physical damages and not economic damages.

Here, Yvonne can prove actual damages because she he hand sustained injuries from being cut from the broken glass.

Thus, Yvonne can prove actual damages.

Conclusion

For these reasons, Yvonne can successfully sue Ollie for negligence for her cut hand.

Defenses**Contributory Negligence**

A defendant may use contributory negligence as a defense if the plaintiff was even one percent negligent because it is a complete bar to recovery.

Here, Ollie will not be able to successfully assert this defense because Yvonne was not negligent in falling because she was pushed by Kate and cut her arm on the broken glass.

Thus, this defense will not stand.

Comparative Negligence

A defendant may use pure comparative negligence or modern comparative negligence defense. Under a pure comparative negligence theory, a plaintiff's recovery is reduced by the percentage of their negligence whereas under a modern comparative negligence theory it is a complete bar.

Here, Ollie will not be able to use either of these defenses because Yvonne was not negligent in falling on the field because she was pushed by Kate which eventually led to her hand being broken on the glass that was on the field.

Thus, this defense will not stand.

Assumption of the Risk

A defendant may use assumption of the risk of the defense for a negligence action if the plaintiff voluntarily and knowingly assumed the risk.

Here, while Yvonne knowingly and voluntarily assumed the risk of playing the game of soccer she did not assume the risk of being cut by glass on the field. Yvonne will further argue that it is unlikely that glass would even be present on a soccer field and had she known her hand would possibly be cut in the game then she could have worn gloves.

Thus, this defense will not stand.

Yvonne v. Barry - Broken Arm

Negligence

Please see rule above.

Duty

Please see rule above.

Here, Barry owed a duty of care to Yvonne because he is the coach of the other team and understands that one of his player's has a temper that could cause harm to others.

Thus, Barry has a duty.

Standard of Care

The standard of care of that a reasonably prudent person. A professional owes a heightened standard of care to coaches with similar background and professional experience.

Here, the applicable standard of care that Barry must act under is a coach with similar background and professional experience. Yvonne will argue that Barry did not act under the applicable standard of care because he instructed one of his players, Kate, to engage in rough play when he knows that he has a tendency to engage in aggressive behaviors. Yvonne will further argue that no reasonable coach would instruct their players to play more roughly just because the other team is also engaging in rough play. Instead, Barry should have spoke with the referees or the coaches from the other side.

Thus, Barry did not meet the applicable standard of care.

Causation

Please see rule above.

Actual Cause

Please see rule above.

Here, Yvonne can prove that but for Barry instructing Kate to play more roughly she would not have sustained any injuries to her arm because Barry is Kate's coach and he was giving her specific

instructions on playing rougher than she was.

Thus, Yvonne can prove actual causation.

Proximate Cause

Please see rule above.

Here, Yvonne can prove that it was reasonably foreseeable that if Kate began to play more roughly Yvonne would sustain an injury because Kate was a very aggressive player and Barry was aware of this. Additionally, Yvonne will point to the fact that Barry had previously instructed Kate to play more roughly which led to a fight with an opposing player on a different team.

Thus, Yvonne can prove proximate cause.

Damages

Please see rule above.

Here, Yvonne can prove damages because her arm was broken after Kate began playing very aggressively and knocked her down.

Thus, Yvonne can prove damages.

Conclusion

For these reasons, Yvonne can successfully sue Barry for her broken hand.

Defenses

Contributory Negligence

Please see rule above.

Here, Barry will argue that Yvonne was contributory negligent because her team was also engaging in rough play. However, there are no facts that allude to the fact that Yvonne specifically was engaged in foul play.

Thus, this defense will not stand.

Comparative Negligence

Please see rule above.

Here, Barry again will argue that Yvonne was negligent because her team was engaged in rough play but this argument will likely not stand.

Thus, this defense will not stand.

Assumption of the Risk

Please see rule above.

Here, Barry will argue that Yvonne knowingly and voluntarily assumed the risk of playing in a sport and that entails being pushed while engaging in a game of soccer. However, Yvonne will counter argue that while she she voluntarily engaged in this sport she did not voluntarily agree to engage in rough play.

Thus, this defense will not stand.

2. Could Yvonne successfully sue Kate for battery? Could Kate successfully sue Yvonne for battery?

Yvonne v. Kate - Battery

A defendant is guilty for battery if they intentionally cause harmful or offensive touching to the plaintiff's person.

Here, Yvonne will argue that Kate is liable for battery because Kate knocked Yvonne down and broke her arm. Furthermore, Yvonne will argue that Kate's push was intentional because she was instructed from her coach, Barry, to engage in such rough play. Yvonne can also prove that the pushing was harmful and offensive because Kate was playing very aggressively and while Yvonne's own team was playing a bit rough they were not throwing players down to the floor. Furthermore, Yvonne will point to the fact that the referee even had to intervene to stop the play to call a foul which indicates that Kate crossed the line that is permitted in an average game of soccer. Additionally, Kate punched Yvonne in the face when Yvonne finally confronted her which indicates further harmful and offensive contact.

Thus, Yvonne will successfully sue Kate for battery.

Defenses - Consent

A defendant may assert their defense of consent if the plaintiff has consented to the touching but they must not exceed the scope of consent.

Here, Kate will argue that Yvonne consented to being touched in the game of soccer and cannot bring a claim for battery against her. However, this defense will not stand because Kate exceeded the scope of consent by pushing Yvonne to the floor for no reason to the extent that the referee had to stop the play and call a foul.

Kate v. Yvonne - Battery

Please see rule above.

Here, Kate will assert a claim for battery against Yvonne because Yvonne pushed her. However, Kate will argue that she did not intend to cause harmful or offensive contact towards Kate but was only acting in self defense because Kate punched her in the face. Additionally, Yvonne will point to the fact that Kate only sustained minor bruises which are normal in a game of soccer whereas Yvonne has a broken arm and was punched in the face.

Thus, Kate's claim for battery will not be successful.

Kate v. Yvonne - Assault

A plaintiff may bring a claim for assault if the defendant intentionally caused the threat of imminent harmful and offensive contact.

Here, Kate will attempt to bring a claim for assault against Yvonne because after the referee called a foul Yvonne asked Kate "Why are you being such a jerk?" However, this claim will likely not stand because Yvonne simply intended to inquire why Kate was playing so roughly and did not threaten to cause harmful or offensive contact.

Thus, Kate's claim for assault will not be successful.

Defenses - Self-Defense

A defendant may assert the defense of self-defense if they reasonably believed that it was necessary to

protect themselves.

Here, Yvonne will assert the defense of self-defense against Kate's battery claim because after being punched by her in the face and knocked to the ground Yvonne was under the belief that Kate would inflict some harm on her again.

Thus, Yvonne's defense will likely stand.

3. If Yvonne recovers only from Ollie and Barry in negligence, how would her damages be apportioned between Ollie and Barry?

Joint and Several Liability

When two or more defendants are negligent a defendant may seek to recover damages from one defendant or each defendant depending on the percentage of their fault.

Here, because Ollie and Barry were both negligent in the damages that Yvonne sustained she may seek to recover the full amount of damages from Ollie or Barry. Ollie and Barry will argue that they were not acting in concert, however, this fact is immaterial because Yvonne sustained damages due to Ollie's negligence of not maintaining his landowner duties while Barry was negligent in allowing Kate to play roughly.

Thus, Yvonne may seek to recover her full set of damages for either party.

Indemnification

When one defendant pays the full amount of damages they may seek to indemnify the other defendant for half of the damages.

Here, if Yvonne recovers the full set of damages for Ollie then Ollie may seek to indemnify Barry. Whereas, if Yvonne seeks to recover the full set of damages from Barry then Barry may seek to indemnify Ollie.

Thus, each defendant can seek indemnification.

Question #2 Final Word Count = 2219

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