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(1) Yvonne v. Ollie

Negligence

Negligence occurs when a defendant owes a duty of standard of care to the plaintiff, breaches that duty, which is the actual and proximate cause and the plaintiff suffers damages.

Duty

A defendant owes a duty to all foreseeable plaintiffs. Under Cardozo the defendant owes a duty to any foreseeable plaintiff in the zone of danger, whereas Andrews follows that any plaintiff is foreseeable. The standard of care is one of a reasonably prudent person in a like position. There are some situations where a landowner owes a standard of care depending on whether the plaintiff is an invitee, trespasser, or licensee. An invitee is where the land is open to the public and the defendant gets some economic benefit; the duty owed is the defendant must warn or make safe and inspect for dangerous conditions. An invitee is like a guest the defendant owes a duty to warn or make safe dangerous conditions. Lastly for trespassers it depends on whether they are anticipated. An anticipated trespasser the defendant owes a duty to make safe or warn of highly dangerous artificial conditions, whereas no duty is owed to unknown trespassers.

Here, Ollie is an owner of land, a field, in which he rented out for economic benefit, to a soccer team, and holds it out to the public for use, therefore this would be an invitee situation. Ollie owes a duty to warn, inspect or make safe conditions. The day before the soccer game Ollie inspected the land by checking the field for dangerous conditions and found nothing, but did not examine the field again before the game. Yvonne was playing on one of the teams that was using the field. Under Andrews, Yvonne was a foreseeable plaintiff, because of her presence of using the field. Under Cardozo, Yvonne was also a foreseeable plaintiff, as she was using the field, which Ollie had a duty to inspect and therefore was in the zone of danger, because if the field was not safe while Yvonne was playing, then she would be a foreseeable plaintiff. Ollie owed a duty of care.

Breach

A defendant breaches their duty when their conduct falls below the applicable standard of care.

While playing soccer on the field, Yvonne fell, broke her arm, and cut her arm on a piece of glass laying on the field. Ollie had a duty to inspect the field and make safe or warn of dangerous conditions, which he did inspect the day before the game but did not inspect it further again. Soccer players on the field would not ordinarily think that there would be a risk of glass on the field while they are playing, so the question becomes whether it was reasonable for Ollie to only check the field the day before the game and not again. It would be likely that Ollie breached his duty knowing that teams were going to be playing on the field and he should have checked the field the same day that the players were going to be there. It is likely Ollie breached his duty.

Causation

The defendant's breach must be the actual and proximate cause of plaintiff's damages. The actual cause is "but for" the defendant's actions, the plaintiff's injuries would not have occurred. The proximate cause is the foreseeable outcome of the defendant's actions.

Yvonne is a soccer player, playing on the field. Soccer is a physical sport and it is foreseeable that players would fall onto the ground during the game. Therefore, by Ollie not checking the field before the game and not discovering the glass is the actual cause of Yvonne's injury. Additionally, as mentioned, soccer players fall on the ground during games. It is foreseeable that if there was something dangerous on the

soccer field when a player falls that they may be hurt by it. Therefore Ollie's actions are the actual and proximate cause of Yvonne's injury.

Damages

The plaintiff must actually suffer damages.

Here, Yvonne suffered an actual injury when she fell on the ground and broke her arm and her arm was cut on the glass that was on the soccer field. Therefore, Yvonne has suffered damages due to Ollie's breach.

Conclusion: Yvonne would likely have a successful claim of negligence against Ollie.

Defenses

Assumption of Risk

Assumption of risk is when the plaintiff voluntarily assumes the act and they know the risk of it.

Ollie will argue that he is not responsible to Yvonne for her injuries because, as a soccer player she knows that soccer is a physical sport and falling is likely to occur and sometimes as a result an injury may occur. This may be the case for the broken arm, because of her fall, however, not the broken glass. A soccer player may assume the risk of falling and potentially getting an injury from the fall, but would not assume the risk of falling on glass on the field.

It is not likely that Ollie would be successful in an assumption of risk defense for the glass, but could be likely for the broken arm.

Yvonne v. Barry

Negligence

Supra.

Duty

A defendant owes a duty to all foreseeable plaintiffs. Under Cardozo the defendant owes a duty to any foreseeable plaintiff in the zone of danger, whereas Andrews follows that any plaintiff is foreseeable. The standard of care is one of a reasonably prudent person in a like position.

Barry has a duty to act as a reasonably prudent soccer coach would. A reasonable soccer coach would not encourage their players to play more rough, especially when they know that the player they are encouraging is a very aggressive player. Additionally, Barry has tried this in the past and the result was that Kate started a fight with the opposing team. Yvonne is a foreseeable plaintiff as she is a player on the opposite team and in which Barry is encouraging Kate to be more aggressive with. Barry owed a duty to act as a reasonable coach would in a like situation.

Breach

Supra.

Barry breached his duty to act like a reasonable coach when he encouraged Kate to play more roughly, knowing that she has an aggressive behavior and her past response of fighting with a player from the other team.

Causation

Supra.

Under the actual cause, Barry did not himself harm Yvonne. He did encourage Kate to play more roughly and knew that Kate was a very aggressive player. As Kate is playing soccer, it is foreseeable that her aggressive behavior would be inflicted on the other team. Barry's actual encouragement of Kate was the but for cause and Kate's response was foreseeable.

Damages

Supra.

Yvonne received actual injury from when Kate knocked Yvonne down and she fell on the ground, breaking her arm.

Conclusion: It is likely that Yvonne would be successful in a claim against Barry.

Defenses

Assumption of Risk

Barry will argue that soccer is a contact sport and that Yvonne assumed the risk of contact, which can lead to injury. Here, however, Barry encouraged another player with known propensities to play very aggressively and encouraged the aggressive behavior. Therefore, although Yvonne does assume the risk of a contact sport, she did not assume the risk of the heightened aggressive behavior that Barry encouraged.

(2) Yvonne v. Kate

Battery

Battery is a harmful or offensive contact to a plaintiff or their person. Harmful contact is when the plaintiff suffers and injury and offensive contact is one of the ordinary person would find offensive. Everyday contact, like being touched in a crowded space is considered to be consented. Additionally, playing sports can also be inferred as consented to contact.

Soccer is a physical sport and therefore there is touching and contact involved that is inherent in the game. If Yvonne sues Kate for battery when they were playing and Kate knocked Yvonne down, that may be arguable, because although it was aggressive it was during the game and Yvonne consents to some contact. However, while the play was stopped, Kate harmfully punched Yvonne, which caused an injury and would be offensive contact to the ordinary person. This is not the sort of contact that Yvonne would consent to during a soccer game because it didn't actually occur when the game was even being played and was not a part of the game.

Conclusion: Yvonne would likely be successful against Kate for Battery.

Kate v. Yvonne

Battery

Supra.

After Kate punched Yvonne, Yvonne responded by pushing Kate. Yvonne made contact with Kate by putting her hands on her, which resulted in her falling and suffering injuries. The contact was likely to be offensive, because the push did not occur during the soccer game and resulted in Kate falling on the ground. Because of Yvonne's offensive contact with Kate that resulted in harm, it is likely that Kate can bring a claim for battery.

Self-Defense

A defendant may use the claim of self defense. Self defense is when the defendant uses reasonable force necessary to prevent immediate injury from occurring.

Yvonne will assert self-defense and argue that she used reasonable force, a push, to prevent further injury by Kate after Kate had just punched her. Kate was the the initial aggressor when she punched Yvonne and Yvonne did not go beyond the scope of force necessary to get Kate away from her, although Kate did fall onto the ground. Just because Kate suffered an injury does not mean that Yvonne cannot raise self defense.

Conclusion: Although Kate can bring a battery action against Yvonne, it is not likely to be successful because Yvonne can raise the claim of self defense.

(3) Damages

Joint and Several Liability

When two defendants actions come together and cause an injury to the plaintiff that is attributable to each defendant on their own, the defendants are joint and severally liable. This means that both the defendants actions on their own still would have caused the injury to the plaintiff and both can be liable to the plaintiff.

Here, Ollie's negligence of a failed inspection caused Yvonne to break and cut her arm on glass that was laying on the field. Whereas, Barry's negligence of encouraging Kate to play more roughly and encourage her aggressive behavior is also attributable to Yvonne's fall and broken arm. The court can assess fault on part of the defendant, but when the defendants are deemed to be joint and severally liable, Yvonne can recover the full amount of damages from either of defendants Barry or Ollie. The defendant one can then sue the other defendant (defendant two) for contribution.

Yvonne's damages would be apportioned in the full amount by suing either Ollie or full amount suing Barry.

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END OF EXAM