

Question MEE 3 – February 2025 – Selected Answer 1

1. In a negligence action against Alan, can Brenda establish that Alan breached his duty of care based solely on his violation of the school bus law?

The issue is whether Brenda can establish that Allan breached his duty of care under a negligence per se theory against Alan where he violated the school bus statute.

To prevail on a claim for negligence, a party must prove duty, breach, causation (both legal and actual) as well as damages. A Plaintiff may satisfy both duty and breach under the theory of negligence per se if the plaintiff can establish that the defendant violated a statute, that the plaintiff is the type of person the statute was designed to protect, and that the injury is the type of injury the statute was designed to prevent.

Here, a statute prohibits passing a school bus when it is flashing its red lights and extending its side mounted stop sign. Brenda could argue that by violating this statute, Allan was negligent per se.

Under these facts, Brenda could not prevail under a negligence per se theory. The school bus statute was presumably enacted to prevent **children** from being injured while crossing the street when a driver disregards a bus's safety measures. Brenda was not a child and was therefore not the type of person the statute was designed to protect.

Nor was the injury - a scratched bumper - the type of injury the school bus law was likely designed to prevent. Here, the law was likely enacted to prevent personal injuries, not property injuries.

Therefore, Brenda could not establish that Alan violated his duty of care merely because he violated the school bus law.

2. Can Brenda establish Alan's liability based on Alan's allegedly detaining her against her will?

The issue is whether Brenda can establish that Alan committed the intentional tort of false imprisonment.

False imprisonment is an intentional tort that requires the Plaintiff to prove that the defendant confined them against their will in a manner that they did not reasonably feel free to leave. The plaintiff must establish that the confinement was intentional.

Here, after verbally accosting and assaulting Brenda on the road, Alan followed her to a gas station parking lot, got out of his car, and followed her to the restroom. He then pounded on the restroom door yelling "come out so you and me can have a talk if you know what I mean." When Brenda said she was not coming out, Alan stated that he "had all day, so get comfortable."

Although Alan only stayed for two minutes, Brenda's fear of him was reasonable and she had no way to know that Alan had left. Under these circumstances, a person would reasonably not feel free to leave the confined space (the restroom). Further, Alan's conduct was intentional. Despite his "invitation" that Brenda leave the restroom, he knew or should have known that she would be afraid to do so under the circumstances.

Given the facts, Brenda can likely establish liability against Allan for false imprisonment.

3. Is Alan's admission sufficient for the patient's family to prevail in a motion for partial summary judgment establishing that Alan is liable on the family's wrongful death claim?

The issue is whether Alan's admissions are sufficient to warrant a partial summary judgment holding on liability.

Summary judgment is governed by Federal Rule of Civil Procedure 56. To prevail on a motion for summary judgment, the moving party must establish that there is no genuine issue of material fact. This may be established through affidavits, discovery responses, deposition testimony or other evidence, including party admissions. Once that is established, the burden shifts to the non moving party to demonstrate that a material issue of fact exists. All inferences are taken in favor of the nonmoving party.

Here, the patient's family must establish the elements of liability in order to prevail on a partial motion for summary judgment. In other words, Alan's admissions must be sufficient to establish that there is no genuine issue of material fact as to duty, breach, and both legal and factual causation. Once duty and breach are established in a negligence action, the defendant is liable to all reasonably foreseeable plaintiffs.

Alan has admitted facts sufficient to establish that he wrongfully obtained Brenda, who he knew was a doctor ("a self-important physician, probably headed to bandage a scraped knee," he thought) on her way to a clinic ("oops! don't miss the exit to the clinic!" he said, indicating that he knew Brenda was on her way to a clinic). He had a

duty to act with reasonable care, which he admits violating by preventing Brenda from exiting the highway and then detaining her wrongfully in the bathroom.

The only potential issue the patient's family will face is causation. Alan will argue that the patient's death was too attenuated to be foreseeable - his worry was about Brenda attending to a scraped knee, not attending life-saving surgery. However, this is unlikely sufficient to create a genuine issue of material fact. Alan admits he knew Brenda was a doctor and knew the clinic was close by. He knew she was prevented from getting to the clinic. It was therefore reasonably foreseeable that his detention of Brenda could cause harm to a third party awaiting her doctor's care.

Under these facts, the court is likely to grant a partial summary judgment on liability.

Question MEE 3 – February 2025 – Selected Answer 2

1. Negligence consists of four elements: duty, breach, causation (both actual and proximate), and damages. In ordinary situations, there individuals have a duty to act as a reasonable person would in the circumstances. This duty standard may vary depending on the circumstance. For example, if one has greater skills than a reasonable person, they are required to use those skills, or, if one is acting in the course of their profession, they must behave as a reasonable member of that profession would. Actual causation can be found with a "but for" test meaning that "but for" the defendant's negligence, there would not have been an injury. Proximate cause is a limitation of liability that applies a foreseeability test: was it foreseeable for the purportedly negligent party to expect the occurring harm/damages to happen. Damages are measured by the injuries which need not always be physical.

Brenda likely cannot establish Alan breached his duty of care based *solely* on his violation of the school bus law, though she would likely prevail on a broader negligence claim. When looking at the duty of care standard in the context of the school bus law, the appropriate standard is called "negligence per se." In negligence per se cases, if the defendant violates a criminal statute, then the violation of that statute will purport to furnish a violation of both the duty and breach elements of a negligence case (causation and damages still need to be proven).

There are two additional factors to consider for negligence per se, both of which will make it unlikely that Brenda can establish Alan breached his duty of care on a negligence per se basis. First, the statute must be one that is intended to protect the type of plaintiff that was injured. Second, the type of injury that occurs must be the type of injury that the legislators had in mind when creating the statute. In this case,

Brenda is not in the protected class of plaintiffs. The law that prohibits passing a stopped school bus with flashing red lights on its side-mounted stop sign is very likely intended to protect children boarding a school bus. Children are especially vulnerable when getting on and off the bus to being struck by cars so they are the protected class of plaintiff and the anticipated injury would be to those children. If Alan had struck the school bus, the bus driver or any subsequently hurt kids may have a better case under negligence per se. As it stands, Brenda does not. Brenda's side doors were damaged and but for Alan's reckless driving, which he should have foreseen could cause her harm, (likely a breach of the duty of driving as a reasonable person would), she would not have sustained those damages. A traditional negligence argument would be successful, negligence per se based solely on violation of the statute would not.

2. Brenda can likely establish Alan's liability based on Alan detaining her against her will. Alan has committed the intentional tort of false imprisonment. False imprisonment occurs when the guilty party confines a person to a bounded area against their will with no reasonable means of escape. Even threats, especially reasonably dangerous ones such as the ones made here, will count toward establishing that the person was unlawfully confined. Here, Brenda fled from Alan after he dangerously tailed her car at a speed far above the speed limit while he also honked his horn. Brenda had a reasonable fear that Alan's truck was going to hit her car. Under the circumstances, particularly the speed, it is reasonable to further assume that Alan could have killed Brenda or caused her serious bodily injury.

With this state of reference, Brenda pulled off the highway, still saw she was being stalked by Alan, and even after intents to lose him, had to lock herself in a restroom to get away from him. Alan will try and argue that Brenda placed herself in the bathroom, the confined area in this case. However, because Alan's threatening conduct led Brenda in there, this argument will be hard to pass muster. Additionally, Alan may argue that he sought to get Brenda to "come out," but this alleged talk he wanted to have was a clear threat, especially in light of the circumstances. Alan also told Brenda that he had "all day" and that she should "get comfortable," suggesting that she would not be able to escape from the confined area for long. As such, Brenda was confined to a bounded area with no reasonable means of escape. Though the door would have been a way to get out of the bounded area, it was not a reasonable means of escape because by exiting she would have immediately put herself in grave danger, subjecting herself to Alan. Though Brenda remained in the restroom for longer than the time Alan was outside the door, this will still constitute false imprisonment because the length of time she was actually confined for will not be material given the rest of the surrounding circumstances. Alan had the requisite intent

to confine her because he had the intent to use threats which ultimately prevented her from escaping.

3. In order for a motion for summary judgment to succeed there must be no genuine dispute as to material facts and the evidence is looked at in the light most favorable to the non-moving party, in this case Alan. The family sued Alan for "negligence causing wrongful death." The elements establishing the prima facie case for negligence are met here (the elements are enumerated separately at the top of answer 1). Alan had a duty to act as a reasonable person would. Particularly when conducting an adult activity, such as operating a motor vehicle, Alan should have driven as a reasonable adult would have. Alan breached this duty by intentionally driving with a great degree of recklessness, nearly injuring Brenda many times. Alan also breached his duty to act as a reasonable person would be detaining Brenda in a public restroom. It is not reasonable to enter such a mind-addling road rage that one act the way Alan did in response to a car reasonably slowing down for a stop sign. Additionally, Alan's vitriol upon seeing the "MED DOC" license plate was not a compelling justification to breach his duty to drive carefully and not prevent a doctor from seeing her patient.

But for Alan tailing, following, threatening, and confining Brenda, she would not have had to exit the highway, take alternate routes to double back around Alan, wait inside the restroom in fear, or take only back roads to make sure she was not followed. Because Brenda arriving even 15 minutes earlier would have saved the patient's life, it is clear that but for Alan's negligence, the patient would have lived. As far as proximate cause is concerned, Alan should have foreseen that his actions could have had serious consequences for a patient. Alan may attempt to argue that Brenda waited in the restroom in fear for too long or that she took backroads to get back to the patient. Alan made it clear when he admitted to saying Brenda speeding past Alan initially was "probably" the result of heading to bandage a scraped knee. Thus, Alan acknowledged explicitly the possibility that Brenda was not speeding for speeding's sake and had a higher purpose in mind. Accordingly proximate cause should not act as a limitation on liability because it was reasonably foreseeable that stopping a likely racing to the hospital medical doctor from getting to the hospital could result in serious injury to their patient. The damages element is clear as the patient died from their injuries.

While these duties were owed primarily to Brenda and her patient, the family, since the patient is now deceased, may bring these claims on the patient's behalf. In light of the above, the court will likely find that there is no genuine dispute as to material fact, even when viewing the evidence in a light most favorable to Alan, and grant the patient's family's motion for summary judgment establishing that Alan is liable on the family's wrongful death claim.

Question MEE 3 – February 2025 – Selected Answer 3

1. At issue is whether Brenda can establish Alan breached his duty of care under a negligence per se theory based solely on Alan violating the school-bus law.

Negligence requires four elements: duty, breach, causation (actual and proximate), and damages. Negligence per se raises an inference of breach based on someone violating a law or statute. In order to claim a defendant was negligent per se, the plaintiff had to have been a member of the class the statute was intended to protect and the plaintiff's harm had to be the type of harm the statute was created to prevent.

Here, the law that prohibits passing a stopped school bus that has its red lights flashing and its side-mounted stop sign extended. Alan violated the law by swerving around Brenda's car and the bus while it has its red lights flashing and its side-mounted stop sign extended. Although Alan violated the law, Brenda was not within the person's of the protected class because the purpose of this statute is likely to protect children getting off the school bus. Brenda is not within this class as she is not a child and was not on the bus. Additionally, Brenda likely did not suffer the type of harm the statute was intended to prevent because she is claiming vehicle damage while the statute is to probably prevent cars from hitting children as they walk off the bus.

Therefore, Brenda likely cannot establish that Alan breached his duty of care based solely on his violation of the school-bus law because she was not within the statute's protected class and did not suffer the type of harm the statute was intended to prevent.

2. At issue is whether Brenda can establish Alan falsely imprisoned her in the public restroom.

False imprisonment is an intentional tort. It requires the plaintiff be confined by the defendant, awareness of the confinement, and without reasonable means of escape. A person may be confined and not able to leave an area out of fear of reasonable apprehension created by the defendant. The time of confinement is insignificant as long as the plaintiff was confined.

Here, Brenda ran into the gas station restroom and locked the door because she was scared of Alan. When Alan pounded on the door and told her to come out Brenda responded she was not coming out until he left. Alan replied that he had all day so she could get comfortable. By Alan making this statement, he confined Brenda to the restroom because she was unable to come out due to her fear based on the bad rage

incident they just had. Brenda was aware of the confinement as she was awake and heard Alan's statements. Brenda had no reasonable means of escape because she was in fear of what Alan would do to her if she came out of the restroom based on his threat "Come out so you and me can have a talk, if you know what I mean!" Although Alan left after 2 minutes, and Brenda remained in the restroom for 20 minutes, she was still confined for a period of time.

Therefore, Brenda likely can establish Alan is liable for false imprisonment based on him threatening her if she came out of the locked restroom.

3. At issue is whether Alan's admission is sufficient for the patient's family to prevail in a motion for partial summary judgment establishing Alan is liable on the family's wrongful death claim.

To prevail on a motion for summary judgment, the moving party must prove that there is no genuine dispute of material fact. The court shall take all facts in the light of the non-movant in ruling on the motion. In wrongful death claims, the deceased's family steps into their shoes and is allowed to bring an action for negligence on the deceased's behalf. See negligence rules above. A negligent tortfeasor is liable for all natural and foreseeable consequences that result from their negligence.

Here, all facts must be in light of Alan, the non-moving party in considering the motion. The patient's family likely will not be able to prove a negligence claim based on Alan admitting to the facts surrounding the incident with Brenda. Alan likely did not owe a duty to the patient, Brenda did. Even if the court finds Alan did owe a duty or he is liable for the foreseeable consequences of the negligence based on his actions towards Brenda. There is a dispute as to whether the patient's death was foreseeable. One could argue Alan knew Brenda was a doctor and likely going to the hospital based on his statements. On the other hand, one could argue that Alan could not foresee a patient would die based on Brenda not being there because there could have been other doctors available to help or a number of other circumstances such as Brenda could have been delayed due to a flat tire.

Since there is a genuine dispute of material fact, the court should deny the motion for partial summary judgment and allow the case to go before the jury.